

REC-92

EX-137

January 5, 1960

Mr. Tolson _____
Mr. Mohr _____
Mr. Parsons _____
Mr. Belmont _____
Mr. Callahan _____
Mr. DeLoach _____
Mr. Malone _____
Mr. McGuire _____
Mr. Rosen _____
Mr. Tamm _____
Mr. Trotter _____
Mr. W.C. Sullivan _____
Tele. Room _____
Miss Gandy _____

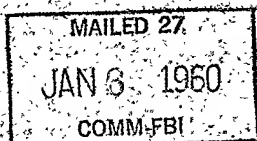
Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York 10, New York

Dear Mr. Malin:

I have received your letter of December 29, 1959,
with enclosure, and I appreciate your thoughtfulness in making a
copy of your 39th annual report available to me. I will be pleased
to read it at the first opportunity.

Sincerely yours,

J. Edgar Hoover



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NOTE: Bufiles reflect cordial relations with Malin. Research unit of the
Crime Records Division will prepare an appropriate review of this report.

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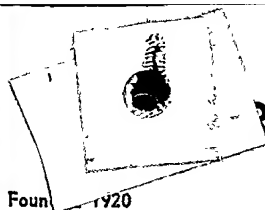
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December 29, 1959

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Constitution Avenue and Tenth Street, N. W.
Washington, D. C.

Dear Mr. Hoover:

The American Civil Liberties Union's 39th annual report has just been published, and I am enclosing a copy for your information. The great demand on your time may not make it possible to review the many cases described in the report, but I do hope that you may be able to read the introductory statement which summarizes the major developments in civil liberties and describes the Union's present structure and operational methods.

We are especially proud to present this copy of the annual report because the ACLU is about to enter its 40th year of activity. As we begin our 40th anniversary year, we are encouraged to continue our efforts by our understanding the important interconnection between defense of individual liberty in our nation and the preservation of freedom throughout the world.

We would be pleased to receive any comment you care to make on the enclosed report.

Yours sincerely,

Patrick Murphy Malin

Patrick Murphy Malin
Executive Director

EX-137 REC-92 61-170-801

ENCLOSURE

DEC 31 1959

WITH ORGANIZED AFFILIATES IN TWENTY-THREE STATES
AND 800 COOPERATING ATTORNEYS IN 300 CITIES OF 48 STATES

IF YOU ARE ARRESTED...

- **What are your rights?**
- **What can you do?**
- **Where can you get help?**
- **What does the law say you cannot do?**

Issued as a Public Service by
THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
42 West 44 Street, New York 36, N. Y.
and the
NEW YORK CIVIL LIBERTIES UNION
170 Fifth Avenue, New York 10, N. Y.

IF YOU ARE ARRESTED . . .

What Are Your Rights?

The law says that arrest is "taking a person into custody (so) that *he* may be held to *answer* for a crime". If you are arrested, you have rights which protect you from unfair pressure. The policeman who may arrest you has his job to do, and you must respect it. He stands for law and order, and he has a duty to us, to our families and to the City of New York.

What are *your* rights if you are arrested? Here are answers to some questions you may have about these rights. Read them carefully so you will know your rights if you are arrested.

I. THE ACT OF ARREST

What If You Are Innocent?

Even if you think you are not guilty, it is a crime to resist an officer who arrests you lawfully. Respect him. Do not talk back or be disorderly. If it turns out that you have been arrested illegally, you can sue the policeman for false arrest. But remember: if the arrest was a lawful one, the fact that you are innocent does not give you the right to collect damages. The following answers tell you how to get help to answer the charge and to protect your rights—whether you are innocent or not.

What Can You Be Arrested For?

There are three kinds of violations for which you might be arrested: *Felony* is the name for the most serious violation. Less serious violations are called *misdemeanors*, and the least serious are known as *offenses*.

When Can You Be Arrested?

A policeman may arrest you without a warrant:

1. If he *sees* you commit a violation of the law—or if he *sees* you *try* to commit one.
2. If someone committed a felony and if the policeman has reason to believe you did it, even if he was not there at the time.

Must the Policeman Have a Warrant?

In most situations a policeman must have a warrant to arrest you for a misdemeanor or an offense, if he did not see you do it himself. He does not need a warrant to arrest you for a felony.

What Is a Warrant?

A warrant is an order signed by a magistrate or a judge. It is made on a complaint by someone, and it charges that you committed a crime. The warrant must list the charge against you. It also must direct the policeman to make the arrest and to bring you before a magistrate or a judge. In the case of a misdemeanor, you cannot be arrested on a warrant on Sunday or at night—*unless* the magistrate or judge says so in writing on the warrant itself. If a policeman has a warrant for your arrest, he must tell you he has it. You have the right to ask to see it. If you ask, he must show the warrant to you.

Can the Policeman Use Force to Arrest You?

If you resist a lawful arrest, the policeman can use all necessary force to arrest you. However, after you have been restrained, he cannot continue to use force.

An officer may break open a door or a window to make a lawful arrest or to serve a warrant if you refuse to admit him.

II. YOUR RIGHTS IN THE POLICE STATION

What Happens After You Are Arrested?

You are taken to a police station, where a record of your arrest and the charge against you must be reported without unnecessary delay in the "arrest book". Before questioning you, the police must tell you the charge. Where required by law, you will be fingerprinted and photographed.

Do You Have to Answer Questions?

It is your right, under the Constitution, to refuse to say anything that may be used against you later—and to have the aid and advice of a lawyer at all times. After identifying yourself, you do not have to answer any questions or sign any paper about a crime. Neither a policeman nor anyone else may force you to do this. If any force or threats are used against you, report it to the court, to the District Attorney and to your own lawyer. You should also report promptly to the court any injuries and bruises suffered after arrest.

The promise of a policeman to help you or to intervene with the court, in exchange for a confession, is *not* binding.

Can You Notify Your Family?

You are entitled to have one telephone call made within city limits, to tell your family, friend or lawyer about your arrest. The police must do this promptly if you request it.

IF YOU ARE ARRESTED

You have a right to

- Get a lawyer
- Say nothing that can be held against you
- Notify family or friends
- Apply for bail

Do not

- Resist a policeman
- Talk back or be disorderly
- Refuse entry for a lawful arrest

This pamphlet is the result of many months of research and consultation with experts in the field of police practices.

Laws covering arrest are not the same in every city. This pamphlet applies only to New York City.

61-190-853

What Happens to the Money You May Have with You?

You must be given an itemized receipt for all money and property taken from you when you are booked.

Can You Be Released on Bail?

You have the right to be allowed to apply promptly for bail. *Bail* permits you to be released from jail, if an amount of money or other security is deposited with the proper official to make sure that you will appear in court. For some minor offenses, the police may release you on bail. In other cases, a judge fixes the amount of bail, and you have a right to be brought before him without unnecessary delay.

How Can You Get Money for Bail?

There are bail "brokers," licensed by the State of New York, who post a bond for bail (pay the amount for you). The fee they charge is regulated by the state. Charges are 5% on the first \$1,000, 4% on the next \$1,000 and 3% on the remaining sum. The minimum fee is \$10. (Examples: \$100 bond costs \$10; \$200, \$10; \$500, \$25; \$1,000, \$50; \$2,000, \$90; \$5,000, \$180, etc.)

III. YOUR RIGHTS IN COURT

When Do You Go Before a Magistrate?

After arrest and booking, you must be taken before a magistrate without unnecessary delay. If a magistrate is not then sitting in the right court, you may be held in a station house until the next court session.

Should You Have a Lawyer With You?

If possible, you should have a lawyer with you when you are taken before the magistrate. The magistrate must tell you the charge against you. He must inform you of your right to have a lawyer if you do not have one, and he must allow you a reasonable time to send for a lawyer. If you ask, he must put off the hearing so that you can get a lawyer. The magistrate must direct an officer to take a message to your lawyer, without a fee.

What If You Cannot Afford a Lawyer?

If you are charged with a felony or a misdemeanor, and you cannot pay for a lawyer, you can request legal aid. In the Court of Special Sessions and the Court of General Sessions, the court must name a lawyer to defend you. In other courts you may ask the magistrate if you are entitled to this assistance. (See note at end for additional information on obtaining legal help.)

What Does the Magistrate Decide?

The magistrate must hold a hearing at which witnesses are examined and you have the right (but not the obligation) to testify. You can ask that this hearing be adjourned until your lawyer can be present. For certain offenses, this hearing constitutes a trial so that the magistrate will dispose of the case directly and either dismiss the charge or find you guilty. In other cases, where he cannot try the charge himself, the magistrate decides only whether or not there is a reasonable basis for finding that you committed the offense charged. In such case you may waive the hearing. If you are charged with a misdemeanor, the magistrate will hold you for trial by the Court of Special Sessions; if it is a felony, he will hold you for the action of a Grand Jury.

What Does the Grand Jury Do?

The Grand Jury will either dismiss the charge against you or it will indict (accuse) you. If it indicts you, you must then stand trial in a trial court. You have a "right" to ask to appear before the Grand Jury when it is considering your case, but you should not make this request without the advice of your lawyer.

IV. WHERE YOU CAN GET HELP

If you do not know a lawyer and you need legal advice, telephone or write to the Legal Referral Service in your borough at the address listed below. This is a public service supervised and supported by the Bar Associations of New York City.

MANHATTAN

Legal Referral Service
36 West 44th St., New York 36, N. Y.
(MUrray Hill 7-7383)

BRONX

Legal Referral Service
Bronx County Bar Association
Bronx County Building
851 Grand Concourse, Bronx 51, N. Y.
(JErome 7-4012)

BROOKLYN

Legal Referral Service
Brooklyn Bar Association
123 Remsen St., Brooklyn 1, N. Y.
(MAin 4-0675)

QUEENS

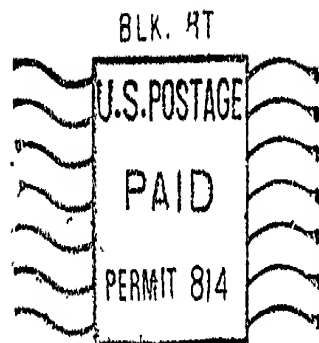
Legal Referral Service
Queens County Bar Association
88-11 Sutphin Blvd., Jamaica, N. Y.
(JAmaica 6-0096)

If you cannot pay for the services of a lawyer, write or telephone the LEGAL AID SOCIETY, 100 Centre Street, New York 13, N. Y. (BEekman 3-0250) for information about facilities which may be available in your borough.

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ACLU'S Defense of Liberty

BY THE PEOPLE



**40th ANNUAL
REPORT**

July 1, 1959 to
June 30, 1960

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1920 — 1960 FORTIETH ANNIVERSARY YEAR

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December 2, 1960

FOR RELEASE: THURSDAY AM NEWSPAPERS, DECEMBER 15, 1960

(ADVANCE) NEW YORK, N. Y., DEC. 14 - Individual citizens shape the course of civil liberties in the United States, the American Civil Liberties Union reminded pointedly today.

"If they want a free society, it will have to be maintained -- by the people," Patrick Murphy Malin, the ACLU's executive director, stressed in his introduction to the Union's 40th annual report, "By The People," released on the eve of the 169th anniversary of Bill of Rights Day. By action or inertia -- singly, through private groups or government representatives -- people determine the progress or setbacks in the preservation of their basic constitutional rights, he wrote.

The ACLU report singled out three areas of current tension in which citizens can make their influence felt: civil rights for Negroes, separation of church and state, and the House Un-American Activities Committee.

Endorsing the Negro lunch-counter "sit-ins" and other legal measures being used to win equality, Malin wrote that people "could privately do a lot more than they are now doing" to hasten the end of racial discrimination, "without waiting for governmental action." But in any case, he emphasized, what federal, state, and municipal governments do will be determined by the pressure exerted on them by the people.

In the same manner, Malin observed, citizens play a key role in the separation of church and state area. "...they can, and often do, nullify (this principle) by the pressures they bring to bear on their officials. In the last analysis, and day by day in a host of specific decisions (most especially in regard to education), it is by the people that it will be decided whether promotion of, or opposition to, any form of religion or non-religion or anti-religion, is to be entirely a private matter -- with no resort to governmental action even for what they privately want in regard to religion."

Repeating the ACLU's conviction that the House Un-American Activities Committee should be abolished, Malin said this "serpent in our demi-paradise of a free democratic government and a free society can be scotched only by the people, through their representatives".

The ACLU report also reviewed other high points of the organization's activities during its 40th anniversary year:

It fought efforts to censor books, magazines and movies either by legislation or by pressure groups such as the Citizens for Decent Literature.

It joined in the mounting attacks against loyalty oaths, including the loyalty provisions to the National Defense Education Act.

It supported legal cases to correct malapportionment of voting districts.

It backed the right of unions to use members' dues for political purposes.

It fought the use of wiretapping and police brutality.

It pressed an extensive campaign for creation of municipal citizen review boards to hear complaints of malpractice by police.

Tracing the organization's 40-year history, Malin stressed that international tension and growing industrialization "have always been the chief scene-setters for the Union's work." He pointed out that these factors were also present in the 1960 civil liberties scene.

"We can thank our lucky stars that the defection of two communications intelligence experts of the National Security Agency in the Department of Defense came after Congress had finally adjourned for the presidential campaign, and -- more important -- that comment in governmental circles and outside has shown maturing recognition that such real dangers to national security cannot really be countered by slap-dash methods which threaten civil liberties. Linus Pauling's stand against the Senate Internal Security Sub-committee has not yet brought a contempt citation. Vice-President Nixon and Senator Kennedy have been sober in talking about how to deal with Communist subversion.

"But, as long as the international temperature is feverish, there will remain at least latent trouble for civil liberties. Even during this year of relatively good sense, Willard Uphaus is in a New Hampshire jail because of a 5-4 United States Supreme Court decision on his refusal to give a list of names. And the House Un-American Activities Committee has proved anew that it should be abolished, by once again staging a meaningless side-show in its almost sole remaining happy-hunting-ground of California."

The "sit-ins" by Negroes in southern cities were described as "additional hand-writing on the wall for those who have not yet learned that machine civilization spells the doom of racial discrimination (in northern housing as in southern voting and schooling)....Modern industry means big factories and supermarkets instead of small farms and shack stores, skilled workers and college students instead of sharecroppers and handymen. Modern industry needs a large body of well-disposed workers and customers at home, as well as enthusiastic friends in Asia and Africa...."

Even though the 1960 political party platforms and the 1960 Civil Rights Act reflect the increasing demand for civil rights progress, the report said, the nation "cannot realistically expect further federal legislation at more than a snail's pace. The immediate practical question, with regard to governmental efforts to end discrimination, is still this two-fold one: Will the White House and the Department of Justice and the other federal agencies energetically and courageously use their already-existing powers, in southern voting and education and in northern housing; and will northern states and municipalities act to solve the multiplying problems of their own bailiwicks?"

Since the first "sit-in" took place in North Carolina last February, the ACLU report noted, it has been "deeply involved in the protest movement." Through direct legal defense of arrested students, through advice and counsel to groups involved in the campaign, and through numerous public statements, the Union stressed the constitutional right of peaceful protest through picketing and the right of Negroes to be served at eating places open to the general public.

In discussing the growing pressure on the separation of church and state principle, the ACLU said that the problem far surpasses the question of what a particular President's religion is. "The comprehensive problem is this: Will all our governmental executives and legislators and judges (federal, state and municipal) and all our people -- Catholic, Protestant, and Jewish; Quaker, Moslem and atheist -- adhere scrupulously to the constitutional principle that there should be neither any governmental restraint on, nor any governmental support of, religion or non-religion or anti-religion?" The nation's schools -- most of all in finance and in curriculum -- "are the chief stake in the church-state contest," the report said.

In the censorship field, the report noted that the United States Supreme Court took under review the "Don Juan" test suit from Chicago raising the basic question of pre-censorship of films. The ACLU added that the high court had handed down a precedent-making decision in the Smith Case where it ruled that local booksellers arrested under anti-obscenity ordinances could not be held criminally liable unless they knew a book contained obscenity.

While applauding the Kennedy-Nixon debates during the presidential campaign which opened the airwaves to increased public discussion of national issues, the ACLU urged the equal-time Section 315 of the federal communication law be changed to require stations "to give minority parties reasonable and equitably distributed opportunity to be heard." The Union criticized suspension of Section 315 by Congress during the recent political campaign on grounds that minor political parties probably would not be accorded any air time, thus depriving the public of its right to hear a wide range of political views. It expressed fear that the temporary suspension might lead to a

permanent one, "thus legislating a two-party monopoly of the air and endangering the democratic processes."

In the area of academic freedom, the report recounted the study conducted by the Academic Freedom Committee reporting on the growing dependence by schools and universities on government grants. Such sponsored funds, it warned, may restrict the institutions' traditional autonomy in selecting and pursuing research programs.

"By and large," the annual report observed, "public debate over internal security practices has steadily decreased in the years since Senator Joseph R. McCarthy held sway in the capitol." Fair procedures for aliens, deportees, the mentally ill, juveniles, and persons detained by police continued to occupy ACLU's attention as the individual cases arose. Its plan for police review boards, initiated by the Greater Philadelphia Branch, was adopted in Minneapolis and in York, Pa. ACLU affiliates in six other cities proposed the establishment of similar local boards.

During the fiscal year ended last June 30, the Union received contributions and income totaling \$486,700, an increase of 22% over the previous year. Expenditures were \$19,000 less than income. The Union's membership stands at 52,000, an all-time high.

Copies of the 84-page annual report may be obtained from the ACLU at 156 Fifth Avenue, New York 10, N. Y., at 75¢ each, postpaid. Prices for bulk orders are available on request.

#

SHOULD YOU HAVE A LAWYER WITH YOU?

If you are charged with a felony, you should have a lawyer. If you do not know a lawyer, ask the police or the judge to tell you how to reach one. If you are without money to pay a lawyer, the Court, in felony cases, will appoint one for you.

If you have been charged with a felony, you may not be tried until the Grand Jury has found there is good reason to believe you committed the crime charged and returns an indictment. Then you will be brought before a judge to plead "guilty" or "not guilty." This procedure is called the arraignment. If you plead not guilty, your case will be assigned for trial. You can ask for a lawyer on arraignment.

If you are able to pay a lawyer, but neither you nor any member of your family knows one, you should call one of the following offices:

CLEVELAND BAR ASSOCIATION
CH 1-3485

CUYAHOGA COUNTY BAR ASSOCIATION
MA 1-5112

IV. CONCLUSION

In summary, the usual procedure is for the police officer to take a person suspected of crime to a police station. They may question you, but you cannot be forced to answer questions which may be used against you later in court. If you are not released, you must be brought before a magistrate (usually a judge in police court) promptly (usually in one or

two days). You have the right to be informed of the reason for your arrest and the crime charged. In misdemeanors, trial may be had. In a felony case, it is the magistrate's duty to determine only if there is reasonable cause for your arrest. You may ask to have a hearing. Then the prosecutor will present the main facts of the case against you. If you know why you are arrested and your connection with the crime, you may waive a hearing. Waiver is not an admission of guilt. The amount of bail will be set.

If you have a lawyer, you should ask for your case to be postponed to a later date so he can be present, before you waive a hearing or other action is taken.

If you are not discharged, a felony case will be "bound over" to the grand jury. Usually it hears only police witnesses. You do not appear. If it returns an indictment against you, you again will be brought before a judge for "arraignment." At this time you enter a plea of "guilty" or "not guilty," bail is reset, and a lawyer will be appointed by the court for you if you cannot afford one and so request.

This statement has been prepared by the Cleveland Civil Liberties Union as an outline of the rights guaranteed to all persons by the Constitution of the United States and of the State of Ohio, and by the laws governing criminal procedure. However, this is only an outline of your rights and should be used only as a guide until you have a lawyer.

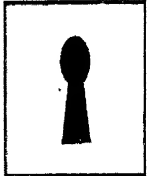
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IF
YOU
ARE

ARRESTED

WHAT HAPPENS?

WHAT ARE YOUR RIGHTS?

WHAT ARE YOUR
RESPONSIBILITIES?

HOW DO YOU GET A LAWYER?

HOW DO YOU GET BAIL?

DO YOU HAVE TO MAKE
A STATEMENT?

WHAT HAPPENS IN COURT?

prepared by
CLEVELAND CIVIL LIBERTIES UNION



WHEN YOU ARE ARRESTED . . .

The law says that arrest is "taking a person into custody so that he may be held to answer for a crime." If you are arrested, you have rights which protect you from unfair pressures. The policeman who may arrest you also has his job to do, and you must respect it. He stands for law and order, and he has a duty to his community.

I. THE ARREST

WHAT IF YOU ARE INNOCENT?

Even if you think you are not guilty, it is a crime to resist an officer who arrests you lawfully. Respect him. Be polite and not disorderly. If it turns out that you have been arrested illegally, you can sue the policeman for false arrest. But remember if the arrest was a lawful one, the fact that you are innocent does not give you the right to collect damages.

WHAT CAN YOU BE ARRESTED FOR?

Every criminal offense is either a felony or a misdemeanor. Any offense for which you can be punished by death or imprisonment in the penitentiary is a felony—all other offenses are misdemeanors.

CAN A POLICEMAN USE FORCE?

Yes, if you resist a lawful arrest. No force may be used by a policeman after you are arrested, unless you resist or attempt to escape.

WHEN CAN YOU BE ARRESTED?

A policeman may arrest you without a warrant:

1. If he sees you commit a violation of the law—or if he sees you try to commit one.

2. If the policeman has reason to believe you committed a felony, even if he was not there at the time.

In most situations a policeman must have a warrant to arrest you for a misdemeanor, if he did not see you do it himself.

WHAT IS A WARRANT?

A warrant is an order signed by a magistrate or a judge. It is issued on a complaint by someone, and it charges that you committed a crime. The warrant must list the charges against you. You can ask to see it.

II. AT THE POLICE STATION

DO YOU HAVE TO ANSWER QUESTIONS?

You should cooperate with the police and you may tell what you know, but you cannot be forced to give a statement in writing or orally to the police about a crime with which you are or may be charged. Physical force cannot be used, and the promise of a policeman to help you get a lighter punishment in exchange for a confession does not bind the court.

CAN YOU NOTIFY A LAWYER?

Yes. The law provides that you have a right to obtain a lawyer and a right to speak with him privately. A policeman or jailer will telephone or carry a message to your family or any lawyer you name.

CAN YOU BE RELEASED ON BAIL?

You have the right to apply promptly for bail. Bail permits you to be released from jail. Bail is an amount of money or other security

deposited with the proper official to make sure that you will appear in court. For some minor offenses, the police may release you on bail. In other cases, a judge fixes the amount of bail, and you have a right to be brought before him without unnecessary delay. A professional bondsman may provide the bond. For this service you will be charged a fee. If you are charged with a very serious crime, such as murder or kidnapping, bail may not be permitted. Bondsmen's fees depend upon the size of the bail. There are no charges fixed by law, but the fee may be as high as ten per cent of the bail.

III. IN THE COURT

WHEN DO YOU FIRST APPEAR IN COURT?

After you have been charged, you are entitled to be taken before the court without unnecessary delay. You are entitled to know the exact nature of the charge against you. If you are unable to speak or understand English, you may and should demand an interpreter. You should insist that there be no proceedings until you have an interpreter.

WHAT HAPPENS DURING YOUR FIRST APPEARANCE?

This depends on the charge against you. In misdemeanor cases, the entire case may be disposed of the first time you are in Court. In felony cases, the Court may determine only if there is reasonable cause for your arrest in connection with the crime named.

If the damage to your property or your personal injuries are caused through the fault or negligence of some person other than yourself, the law gives you the right to collect such an amount of money as will adequately and fully compensate you for your property damage and your personal injuries. The loss directly connected with personal injuries may include hospital bills, doctor bills, or other medical expenses, loss of earnings, and, in addition, reasonable and just compensation for your physical and mental pain and suffering.

At the time of the accident, if possible, you should obtain the names of all witnesses and gather all other information connected with the accident. In addition, if you are involved as either owner or driver of a motor vehicle, either you or your lawyer should notify your insurance company immediately.

If you do not have adequate insurance to cover the injuries of persons other than yourself, it is very important that you obtain legal advice.

You should not discuss the accident with anyone except the police officer appearing at the scene of the accident. The law does not require that you give any statement or have any discussion with a representative of the other person or persons involved in the accident.

If you have an attorney, he will immediately make a thorough investigation of the accident. If you received personal injuries he will obtain medical information from the hospital where you received hospitalization and from all doctors who attended you. He will either settle the case or commence legal action. Personal injury and property damage cases for injured claimants are usually handled on a contingent fee basis—that is, an attorney receives a percentage of whatever he recovers for you by either suit or settlement. He is not permitted to advance to his client money for the costs of the lawsuit. If you are unsuccessful in recovering damages, you will not be charged a fee.

In the usual case, the injured person needs help in dealing with the insurance company. Your attorney is trained in these matters and knows how to evaluate your claim for damages and protect your rights.

* * *

This pamphlet, which is based on Minnesota and Federal law, is issued to inform, not to advise. No person should ever apply or interpret any law without the aid of a trained expert who knows the facts, because the facts may change the application of the law.

BILL OF RIGHTS

Amendments to the United States Constitution

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, or to petition the government for a redress of grievances.

ARTICLE II

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war and public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb nor shall be compelled in any criminal case to be witness against himself nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court in the United States than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states, respectively, or to the people.

ARTICLE XIV, SECTION 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Other Minnesota State Bar Association publications available upon request are:

Are You Sure You Want to Sign That?
Are You Overpaying Your Taxes?
How Lawyers You Never See Protect You
First Steps in Buying a Home
Have You Made a Will?
Minnesota's Traffic Laws
What to Do in Case of an Auto Accident
Property Is a Family Affair
Meet Your Lawyer
It's the Law—a Quiz
Joint Tenancy—Boon or Boomerang?
Estate Planning for You
Patents, Trade-marks and Copyrights
And Justice for All—a Handbook for Jurors
Adoption in Minnesota
After a Traffic Arrest...WHAT NEXT?
 Write to:

MINNESOTA STATE BAR ASSOCIATION
 500 National Building
 Minneapolis 2, Minnesota

KNOW YOUR RIGHTS

Simple Answers to Common
Questions About Your Rights

WHEN ARRESTED

WHEN INJURED

WHEN SUED

Your Rights and the Rights
of Others Are Important

*Prepared and issued as a public service by the Public
Relations Committee of the Minnesota State Bar
Association—a statewide organization of
lawyers and judges*



MINNESOTA STATE BAR ASSOCIATION
 500 NATIONAL BUILDING
 MINNEAPOLIS 2, MINNESOTA

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America

... is a land where the people are governed by laws and not by men. In this country those who govern receive their authority from the consent of the governed. In this respect our government is different from a totalitarian one.

Our Declaration of Independence points out that we are endowed by our creator with certain inalienable rights and that governments are instituted among men to secure these rights. Our Constitution specifically enumerates these rights, such as freedom of speech, freedom to worship as we please, the right to trial by jury, and many others. However, unless you know what your rights are, you may not always secure them.

The following is intended to tell you about your rights under the law in three practical situations—when you are sued, when you are arrested, and when you are injured.

IF YOU ARE ARRESTED

Suppose some day you are walking along the street, minding your own business and not conscious of having done anything wrong, a policeman taps you on your shoulder and says, "You are under arrest!" What should you do? It is well to know the authority of the policeman to make an arrest and to know your rights under the circumstances.

A policeman may arrest a person under one of three situations:

1. If he sees the person violating a law. The law may be a city ordinance, such as against spitting on the sidewalk; a state law, such as against breaking into a building, or a United States law, such as against tampering with the mails.
2. If he has good reason to believe a serious crime, called a felony, has been committed and that the person arrested committed it. A crime punishable by imprisonment in a prison for longer than one year would be a felony. Highway robbery is a felony.
3. If he has a warrant for the arrest of a certain person. A warrant is a paper issued by authority

of law, directing the policeman to make the arrest. If someone swears to a complaint that a named person has violated a law, then a warrant is given to a policeman to arrest that person.

Under the law a person arrested and accused is said to be presumed innocent until proved guilty at a trial in court or until the person accused admits that he is guilty.

Even though you are presumed not guilty and actually have not done anything unlawful, a policeman may have to make the arrest or may believe he is justified in making it.

While you are under arrest, the police have the right to photograph you, to take fingerprints, to take measurements and to examine you for identifying marks. They also have the right to question you as a part of their investigation as to whether someone committed a crime and who it may have been. The police are not doing anything wrong in asking you questions so long as they do not make promises or threats or use force to get you to answer. They are doing their duty to protect people and property against criminals.

On the other hand, you have the right:

1. To be told why you are arrested and to see the warrant, if you are arrested on a warrant.
2. To refuse to answer questions or make any statement or sign any paper.
3. To be allowed to get in touch with a lawyer or relatives or friends by telephone or letter and to have them come to see you.
4. To be brought before a judge as soon as practicable after your arrest.
5. To have a judge or other authorized official fix the amount of bail for your release from jail until the trial.

Being arrested and charged with an offense is a serious matter. If you wish to protect your rights you should have the advice of your lawyer just as soon as possible.

You should not accept any promises nor let anyone frighten you by any threats as to what the judge may do with you in court.

It would be foolish as well as unlawful to try to run away when arrested or to resist arrest. On the other hand, it would be unwise not to try to find out what you are accused of and not to get a lawyer's

help as soon as possible. If you know that you are innocent or if you know that you have committed some offense, in either event a lawyer can advise you as to your rights and possibly avoid your being punished for something you are not guilty of under the law. It may happen that you are accused of something more serious than you actually have done.

YOUR RIGHTS IN COURT

If you have been arrested and are brought into court, you will be asked to say whether you admit having committed the offense or deny it. This is done by a plea of "guilty" or "not guilty."

Ordinarily you should get the advice of a lawyer before you plead.

If you can't afford to hire a lawyer, ask the judge to appoint one for you.

If you need time to get in touch with a lawyer, or friends, relatives or witnesses, ask the judge to put off the hearing.

You should know that there is a difference between offenses under the law. Misdemeanors are the least serious grade of offenses. Next come gross misdemeanors. Felonies are the most serious form of crimes.

The primary duty of a lawyer to his client as required by the Minnesota State and American Bar Associations is as follows:

"It is the right of the lawyer to undertake the defense of a person accused of crime, regardless of his personal opinion as to the guilt of the accused; otherwise innocent persons, victims only of suspicious circumstances, might be denied proper defense. Having undertaken such defense, the lawyer is bound, by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law."

"The primary duty of a lawyer engaged in public prosecution is not to convict, but to see that justice is done. The suppression of facts or the secreting of witnesses capable of establishing the innocence of the accused is highly reprehensible."

YOUR RIGHTS IF SUED

If someone starts a lawsuit against you to compel you to do something, or to collect money, you are

being "sued." Legal papers called a **summons** and **complaint** will be served on you. **DO NOT IGNORE THEM.** To so do may result in a judgment giving the party suing you what he asked for in the complaint.

Being served with papers is a serious matter. Even if you believe a mistake has been made or that you are not liable, read the summons and complaint immediately. They will tell you what you are being sued for and the time within which you must answer. You should consult a lawyer at once, taking the papers with you. Although the summons orders you to appear within a certain number of days, it means that you must interpose an answer within that time or lose the case by default.

Your attorney will want as much time as possible to study the facts, the law that applies, and to prepare your answer to the complaint. He will advise you about your rights in the case.

Prior to the trial, there may be a pre-trial conference at which the attorneys on both sides meet with the judge to try to agree on some of the facts or allegations. Your attorney also may take testimony of the parties to find further facts, and take sworn statements from witnesses who have knowledge of the facts.

Unless the lawsuit is settled or dropped, it will be scheduled for trial before a court. Your attorney will be notified of the time of trial, and will present your side of the case. The law gives you the right to compel witnesses to come and testify in your behalf. You are entitled to a trial by jury in most types of case. Your lawyer will advise you whether you have the right to a jury trial for your particular case.

If you are dissatisfied with the decision of the court, you have the right to appeal your case to the state supreme court and, in a few cases, to the United States Supreme Court.

YOUR RIGHTS IF INJURED

If you are involved in an automobile accident, whether as a passenger, driver or pedestrian, and suffer either damage to your property or personal injuries, you should contact your lawyer immediately if you wish to protect your interests. If it is impossible for you to call your lawyer, have one of the members of your family get in touch with him.

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After a Traffic Arrest...

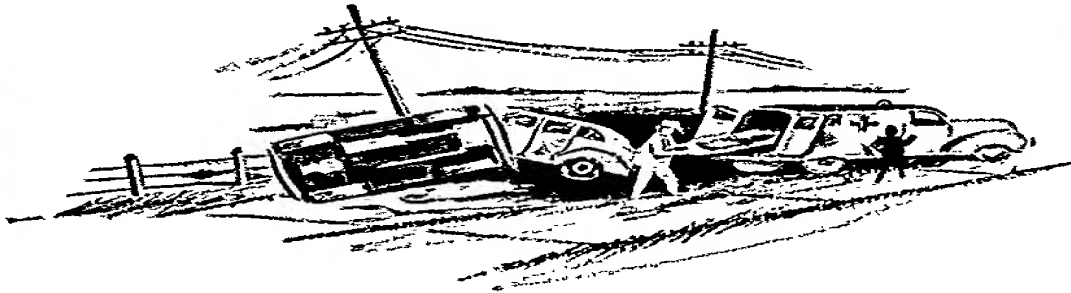
*Published and issued as a public service by the Public Relations
Committee of the Minnesota State Bar Association, a statewide
organization of lawyers and judges.*



MINNESOTA STATE BAR ASSOCIATION
500 NATIONAL BUILDING
MINNEAPOLIS 2, MINNESOTA

WHAT NEXT?

FOREWORD



In 1957, Minnesota drivers caused more pain, more suffering, more death, than ever before in the 100 year history of the state. Drivers who refused to obey the traffic laws killed more than 600 citizens, most of them with children to support and families to cry for them. More than 15,000 people were sent to hospitals because someone thought he could drive a car after a few drinks, or thought he would like an extra half-hour of fishing, or thought he could beat a signal—or just didn't think.

Traffic laws are passed to prevent this bloody tragedy—95 % of the people hurt last year suffered their pain because some driver violated the law. Where traffic laws are enforced, the accident rate—the suffering and death—are much less. Minneapolis issued more than 25,000 tags for “moving violations”—the kind that cause accidents. It has a “tough” Traffic Court. It was named one of the safest cities in the country for a person to live in or to visit.

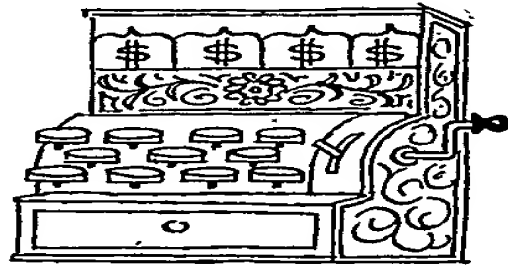
The lawyers of Minnesota are concerned by this slaughter and suffering. They are publishing this pamphlet not as an encyclopedia of traffic law but to show you what happens after you are charged with a traffic violation: to show you your rights and to show you the penalties for not giving the other person his rights. If you have any questions, ask your lawyer.

**You are no safer
than the worst driver you meet**

TRAFFIC VIOLATIONS BUREAU

PURPOSE

Larger cities often have, in the City Hall, an office where you can pay tags without having to go to Court. By paying your fine at such an office, you are pleading guilty to the charge and it will be entered against your traffic record in the Highway Commissioner's Office in St. Paul, except charges involving parking violations.



WHEN TO BUREAU

You may pay a fine without going to Court:

- If you are willing to plead "guilty"
- If you are charged with illegal parking or a "non-moving" violation
- If you are charged with some other minor violation where there was no accident and where your traffic record shows no recent violations

WHEN TO COURT

You must go to Court:

- If you wish to plead "not guilty"
- If you wish to explain why the fine should be lower
- If you are charged with a major violation
- If you are charged with any "moving" violation where there was an accident or where your traffic record shows recent violations

TAGS NOT PAID

If you do not pay your tags:

- Additional penalties will be added
- A warrant will be issued for your arrest
- A police officer may go anywhere in the State to arrest you

***Traffic violators in Minneapolis pay over
\$1,000,000.00 a year in fines . . .
. . . Why contribute ?***

BAIL

RIGHT TO

If you are taken to jail either when you are arrested, or while waiting for trial, or during a continuance, or while waiting for appeal, you have a constitutional right to deposit money with the jailor—from \$10 to \$200 depending on the charge—and be set free.



PURPOSE

The money guarantees that you will be in Court at the date set. If you are in Court at the date set, the money will be returned to you or, if you are fined, you may use it to pay your fine.

FORFEIT-ARREST

If you fail to appear on the date set, the money is forfeited and a warrant will be issued to arrest you and bring you before the Court to stand trial. If you have no prior traffic record, a few Courts will let you forfeit bail and treat this as a plea of guilty and a conviction and so report it to the Highway Commissioner for entry on your traffic record. Before allowing your bail to be forfeited, find out from the Clerk of Court what action will be taken.



The most—and the worst—accidents happen when the weather is good, the visibility is clear, the road is straight, the ground is level . . . and the speed is more than it should be.

COURT PROCEDURE

MEANING OF CHARGE

When your case is called, the Clerk or Judge will read the charge. The Prosecutor or Judge will explain it if you don't understand what it means. Additional time to think about the charge, or to consult your lawyer, will be granted upon request and the Court will set bail and continue the case for a few days. Eventually you must plead either "guilty" or "not guilty".



GUilty



If you plead "guilty," you are admitting that you violated the law and the violation will be entered on your traffic record in the Highway Commissioner's Office. After the Judge has heard the facts, and before he imposes sentence, he will give you a chance to explain any mitigating circumstances. In cases involving a "moving violation" it is often wise to discuss the charge with a lawyer who will help you decide whether to plead guilty or not guilty.

NOT GUILTY



If you plead "not guilty," a date, usually within the next week, will be set for trial and bail will be set, so that the arresting officer and witnesses can be brought in, and to give you time to prepare your defense. You may obtain subpoenas from the Clerk for your witnesses. In complicated cases, it is often wise to consult a lawyer or to have your lawyer assist you.

PUBLICITY



All trials are conducted in open court so that the public may know how their courts are functioning. Court records are public records and cannot be kept secret from anyone, including newspaper reporters.

SEEING JUDGE

It is improper to talk to the Judge about a case before the trial and may result in a conviction for contempt.

PURPOSE OF TRIAL

The trial is only to determine whether or not you violated the law. It is not concerned with what some other driver did or whose fault an accident was.



INSURANCE

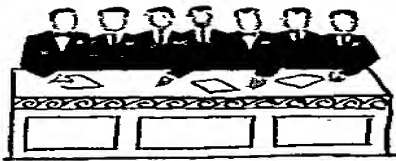
Whether or not you have insurance does not affect your guilt or innocence and so will not come up at the trial. But you should always notify your insurance company after any accident, no matter how small.

EVIDENCE



At the trial, the State will present its case first and you will be allowed to cross-examine each witness. You will then present your case. You are not required to testify yourself but, if you do, you may be cross-examined. A lawyer can be helpful in bringing out the evidence favorable to you.

APPEAL

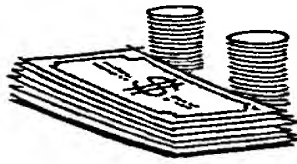


If you are found guilty by a Justice of the Peace or in a Municipal Court outside the three large cities, you may appeal to the District Court for a completely new trial. If the District Court or the Municipal Courts of Duluth, Minneapolis or St. Paul finds you guilty you may appeal to the Supreme Court, being released on bail during the appeal. It is quite difficult to appeal without a lawyer, since a record must be prepared and briefs drawn.

"A little extra speed" may cost you hundreds of dollars, loss of your license, and even a prison sentence . . . How often is it worth it?

SENTENCE

HOW SEVERE



The Court may fine you, for any traffic violation, as much as \$100 or, if the Court sees fit, imprison you for as much as 90 days. In determining the sentence the Court considers two main questions: how much of a danger or inconvenience were you to other people, and what is your previous traffic record.

HARDSHIP



The Court will treat you the same as everyone else regardless of your job, your financial problems, or your position in the community and regardless of your race, creed, or color. The Court will sympathize with the hardship the sentence may cause you and your family but it will also sympathize with the danger of death or suffering that you created for others.

FINES TO TREASURER



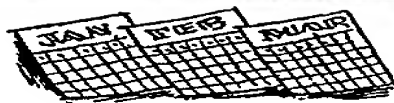
All money you pay as a fine goes to the City, County or State Treasury, depending on what officer arrests you. The Treasurer mixes it with taxes to pay the costs of government. All tags are audited by the State so that they cannot be "fixed" and so that every dollar must be accounted for. You are entitled to a receipt if you ask for it. All Judges and court officials are paid a salary regardless of the number of convictions or fines assessed, except that Justices of the Peace are paid "costs" which are assessed against you in addition to the fine.

FAILURE TO PAY



If the Court imposes a fine, it will also state the number of days you can serve if you do not, or cannot, pay the fine.

INSTALLMENTS



The Court will not allow you to pay fines in installments. It will allow you to make a phone call to find someone to bring the money for your fine to Court. You may pay by check if you have adequate identification. Occasionally, with proper identification, the Court may allow you a short time to go out and obtain money for your fine.

STAY OF SENTENCE



If you are sentenced to imprisonment, the Court may allow you a few days to settle your affairs. During this time you will be required to post bail.

PAROLE



Persons imprisoned are often paroled after serving at least one-third of their time. If you are paroled, you will be under the direct supervision of your parole officer for one year. Some Courts refuse ever to parole traffic offenders, though they will occasionally re-investigate the case after part of the sentence has been served and possibly suspend the balance of the sentence for good cause.

HUBER LAW



Occasionally, if imprisonment will seriously hurt your family because of loss of your earnings, you will be sentenced under the "Huber Law" where you will be released from prison during working hours only, paying \$2.00 to \$4.00 a day rent for your cell and food, and turning all your earnings over to the jailor who will pay your creditors, give an allowance to your wife, and save any balance for you.

Violating the traffic laws can lose you your job, shame your family and cause you trouble the rest of your life.

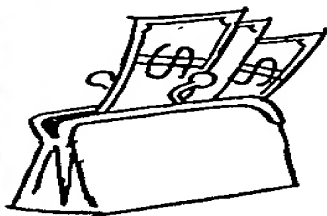
DRUNK DRIVING

MAJOR VIOLATION



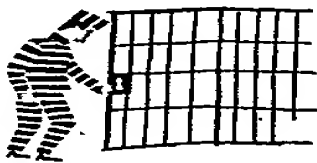
Courts consider driving or being behind the wheel of a car while under the influence of liquor or beer as one of the most serious violations since it is the most dangerous to other people. One out of every twenty persons killed on Minnesota highways is killed by a drunk driver.

FIRST OFFENSE \$100



The sentence for the first violation is usually a \$100 fine and loss of driver's license for 30 days. In addition, for *five* years, your license will be good only so long as you have special insurance on file with the Highway Commissioner which will cost you up to several hundred dollars more than regular insurance. Regardless of your job or your responsibilities, for 30 days you may not drive for any purpose, and no Judge or other official has the power to permit any driving during this 30 day period.

SECOND OFFENSE JAIL

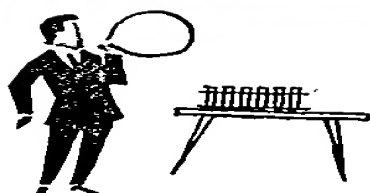


The sentence for the second violation within five years is usually the workhouse or county jail for 30 days and loss of license for at least 90 days.

FOR KILLING UP TO 5 YEARS

The sentence for killing someone while driving drunk may be five years in prison and a \$1000 fine.

DRUNKOMETER



Drunkenness may be proven by the testimony of police officers or others who observed you. It may also be proven by a drunkometer test showing the percentage of alcohol in your blood. If the drunkometer shows

more than .15 %, you will be charged with drunk driving and experience shows that any person with such a percentage is drunk regardless of age, sex or ability to hold liquor. If the drunkometer test shows less than .15 %, you will probably not be charged with drunk driving unless the arresting officer is convinced that your drinking made you a serious danger to others. Only alcohol will register, not aspirin or other medicines.

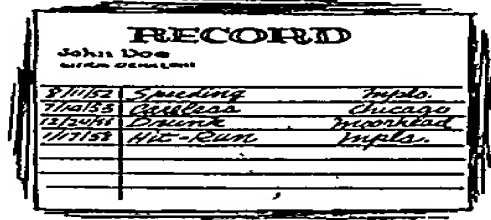
MAY REFUSE TO TAKE TEST

You have the right to refuse to take the drunkometer test, or any other test which may be offered to you. In Minneapolis in 1957, 20 % of those taking the test were not convicted of drunk driving. Of those not taking the test only 3 % were not convicted of drunk driving.

Taxicabs are much cheaper than drunk driving fines.

TRAFFIC RECORD

NATIONWIDE



A record is kept by the Highway Commissioner in St. Paul of every moving violation to which you have pled guilty or of which you have been found guilty or for which you have forfeited bail at any place in the United States or Canada.

This record is kept for at least five years for each conviction. Judges will be given a copy of this record before sentencing you.

YOUR RECORD

The Highway Commissioner does not make the record, he only writes down the record that you make for yourself.

POINT SYSTEM

The Highway Commissioner has established a point system for traffic violations. Each "moving" violation is assigned points. If your violations during any 12 month period total 12 or more points, your license will be suspended for at least 30 days. If they total 18 or more points, your license will be revoked until the suspension is lifted and, in addition, for 5 years you will be required to have special insurance on file with the Highway Commissioner, usually costing more because you have shown yourself to be a poor driver.

Hit-run resulting in death or injury.....	18 points
Manslaughter or criminal negligence.....	18 points
Driving after revocation or suspension.....	12 points
Careless or reckless driving.....	6 points
Driving at unreasonable speed.....	6 points
Failure to yield right of way.....	6 points
Disobeying signs or signals.....	4 points
Improper passing.....	4 points
Following too closely.....	3 points
Improper turning.....	3 points
Driving wrong side of road.....	3 points
Hit-run, no injury.....	6 points
Other moving violations.....	2 points
Any violation helping to cause accident.....	12 points
DRUNK DRIVING.....	18 points

OTHER STATES

If you are convicted in another state of a traffic offense which would call for revocation or suspension of your license in Minnesota, the Highway Commissioner will revoke or suspend the same as though the violation occurred in Minnesota.

Most of the people killed and hurt last year were violating the law . . .

. . . Obey the law and stay healthy

DRIVER'S LICENSE

PRIVILEGE NOT A RIGHT



You have no right to drive. It is a privilege given to you when you prove you are capable of driving and taken away from you when you show by the way you drive that you have no respect for the law or for the safety of other people.

SUSPENSION

The Highway Commissioner decides when to suspend or revoke your license and for how long, though he usually follows the recommendations of Courts. The length of time your license is taken away will depend on the laws you violate and the number of times you violate them. It may be for as little as 30 days, or it may be for a year. You will often be required to take the same examination as a beginner before getting your license back.

DRIVING AFTER SUSPENSION: JAIL

When your license is suspended or revoked, you may not drive for any purpose until you have received and have in your possession a valid license. The sentence for driving after suspension or revocation is usually 30 days in jail or the workhouse. The Court may order the license plates taken off the car you were driving and turned in to the Clerk. No new plates may be put on, except in an emergency, until you obtain a valid driver's license.

OTHERS DRIVING YOUR CAR

If you loan your car to a person whose driver's license has been suspended or revoked, *your* license plates may be ordered taken off your car.

REVOCATION

When your license is revoked, it cannot be reinstated until special insurance is filed, and until the time of suspension or "no reinstatement" has elapsed as set by the Court, the Commissioner or the law. Your license will be again suspended at any time that the special insurance is not kept in force.

UNPAID JUDGMENT

If you fail to pay a judgment entered against you because of an automobile accident, your license will be suspended until it is paid and until you have filed proof of financial responsibility, as required by statute.

RESTRICTED LICENSE

ONLY TO KEEP JOB

If it is IMPOSSIBLE for you to keep your job if you cannot drive, and if your previous traffic record is not serious, the Court may recommend or the Highway Commissioner may give you a license to be used for employment purposes only.

PROOF

You will probably be required to prove that you must be able to drive to keep your job by an affidavit from your employer, also stating the exact hours you NEED the license.

MANDATORY SUSPENSION

No restricted license can be issued until after mandatory suspension periods, such as 30 days for first conviction of drunk driving, or until special insurance is filed if required.

VIOLATING RESTRICTION

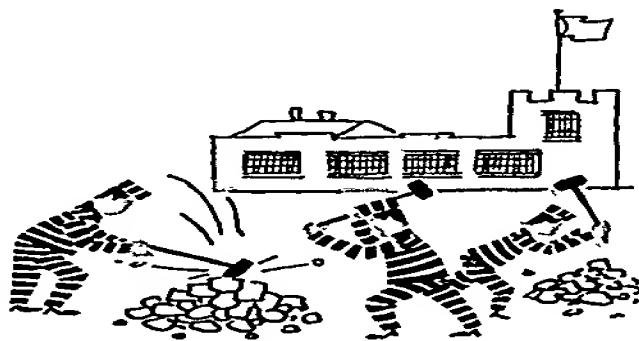
If you drive with a restricted license other than for employment purposes, or other than during the hours specified, you will be sentenced at least to a heavy fine and often to the workhouse or County Jail for 30 days.

Think for a minute . . . what will happen to your job, your fun, and your convenience if you can't drive for 30 days or more.

WORKHOUSE OR COUNTY JAIL

PERSONS PRESENT

Traffic violators who are sentenced to prison usually go to the County Jail or, in the larger cities, to the Workhouse where they are kept with the drunks, pickpockets, shoplifters and such. There are separate quarters for the women convicted of various offenses.



WORK

The men are usually required to dig sand for the highways, clean barns and care for animals, clean old bricks for sale or just sit and think. The women do laundry and sewing and menial jobs. Workhouse prisoners are usually locked up for the night at 5:30.

VISITING

Relatives are usually allowed to visit briefly once a week at a designated time.

"GOOD TIME"

Jailors or Superintendents may allow one day out of each seven off for good behavior.

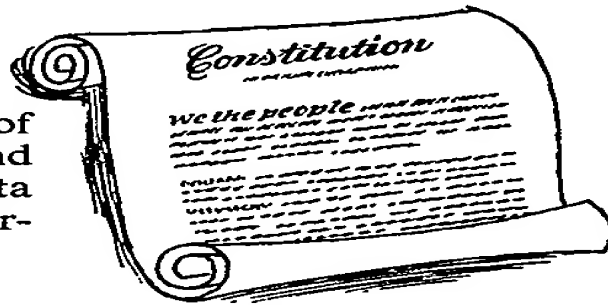
HELP

Chaplains and Alcoholics Anonymous are available for those who want to help themselves.

*The workhouse always has many nice people
... who wouldn't obey the traffic law.*

Rights

The Constitutions of the United States and the State of Minnesota guarantee to you certain rights—



- To be told of the charge against you
- To plead guilty or not guilty to it
- To have time to prepare your defense
- To have the help of a lawyer
- To have subpoenas for your witnesses
- To be tried publicly in open Court
- To hear and question the witnesses against you
- To provide a court reporter to take down all proceedings
- To refuse to incriminate yourself
- To take or refuse the drunkometer and similar tests
- To appeal to the Supreme Court

**You have no right to drive . . .
it is a privilege which violators lose.**



This pamphlet, based on Minnesota law, is issued to inform, not to advise. No person should ever apply or interpret any law without the aid of a trained expert who knows the facts, because the facts may change the application of the law.

Other Minnesota State Bar Association publications available upon request are:

**Are You Sure You Want to Sign That?
Joint Tenancy—Boon or Boomerang?
Are You Overpaying Your Taxes?
How Lawyers You Never See Protect You
First Steps in Buying a Home
Have You Made a Will?
Minnesota's Traffic Laws
What to Do in Case of an Auto Accident
Property Is a Family Affair
Meet Your Lawyer
It's the Law—a quiz
Estate Planning
Patents, Trade-Marks and Copyrights
Know Your Rights
And Justice for All—a Handbook for Jurors
Adoption in Minnesota**

***Write to: The Minnesota State Bar Association, 500
National Building, Minneapolis 2, Minnesota***

YOUR RIGHTS WHEN ARRESTED

Prepared by the
COMMITTEE ON CIVIL RIGHTS
OF THE ILLINOIS STATE BAR ASSOCIATION
and Approved for Publication by the
BOARD OF GOVERNORS OF THE
ILLINOIS STATE BAR ASSOCIATION

1951

*Excerpts from the report of the Committee on Civil Rights
to the Board of Governors of the Illinois State Bar Association:*

"The Committee on Civil Rights from its inception has been impressed with the fact that the most important area of violations of civil rights is that involving day to day police administration. Many of the members of the committee as lawyers have actually handled or have been consulted about serious infractions of basic constitutional rights by police and by prosecuting authorities. Some of them have acted as assistant state's attorneys or as city prosecutors and have observed numerous instances of such violations. * * *

* * * * *

"The Committee came to the conclusion early in its existence that one important method of bringing about an improvement in the situation would be to prepare a statement that could be circulated under the sponsorship and imprint of the Illinois State Bar Association to police chiefs, state's attorney, sheriffs and other police and prosecuting authorities and to the public stating in plain language the rights of arrested persons. * * *

* * * * *

"The Committee is of course aware of the ever present dilemma which confronts law enforcement agencies. The rise in population has brought with it a rise in organized crime. The professional criminal with the aid of lawyers has become particularly skillful in using the bill of rights to the utmost to prevent apprehension and prosecution. There is a strong temptation on the part of police officials to meet the tactics of the professional criminal by dragnet methods that often involve many innocent people. These considerations have been carefully weighed by the Committee. * * *"

ask permission to telephone a lawyer or a friend who can obtain a lawyer for you.

After you have been arrested, you have a right not to be required nor forced by a police officer or anyone to answer any question or sign any paper. You cannot legally be made to talk or sign a paper by force or threats of injury.

You have a right to be allowed promptly to apply for bail. Bail permits your release from jail if money or other security is furnished to guarantee your appearance in court. For some minor offenses, the police may release you on bail. For other offenses a judge fixes the bail, and you have a right to be brought before him promptly.

Yours rights in court

If you are brought into court on a criminal charge, you have many specific rights that you are entitled to claim. A few of the most important are these:

You are entitled to be represented by a lawyer of your own choosing. You are also entitled to a reasonable time before the trial to obtain a lawyer. If you tell the court that you wish to be represented by a lawyer and state on your oath that you are unable to obtain one, the court must appoint a lawyer to defend you.

You are entitled to know the charge against you and to have, without cost, a copy of the formal paper that contains the charge. The formal paper may be called an indictment or an information or a complaint, depending upon the nature of the charge.

You are entitled to plead "not guilty" if you wish to do so. If you plead "not guilty," you are entitled to demand a jury trial.

You are not required to testify if you do not wish to do so. Your refusal to testify is not to be held against you by the judge or the jury. If you plead "not guilty," you have a right to be considered innocent until you are proved guilty by evidence presented in court.

How you plead and whether you testify are important questions and you should have the advice of a lawyer about them.

YOUR RIGHTS WHEN ARRESTED

At the time of arrest

You may be arrested by a police officer when he has a warrant for your arrest or, under some circumstances, when he does not have a warrant.

A warrant is an order by a judge or justice of the peace made upon a complaint by someone and directing police officers to make an arrest. If a police officer bases his right to arrest you upon a warrant, he must have the warrant with him at the time of the arrest and you have a right to read it. The warrant must describe you and state the charge against you. It must also direct the officer to bring you before a judge or justice of the peace.

A police officer may arrest you without a warrant if you commit a crime or attempt to commit a crime in his presence. He may also arrest you without a warrant if a crime has in fact been committed and if he has reasonable grounds for believing that you are the person who committed the crime.

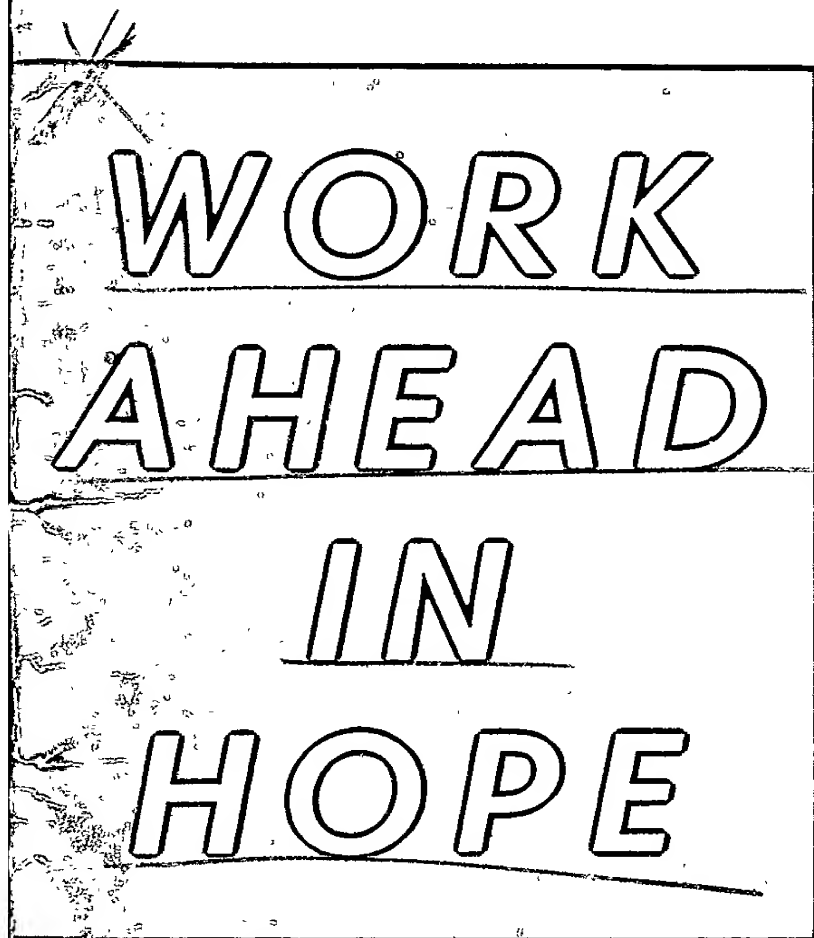
If you are arrested by a police officer illegally, you are entitled to bring an action against him for false arrest. But the fact that you are innocent of the crime charged against you does not make the arrest illegal if someone in fact committed the crime and the officer had reasonable grounds for believing that you were the guilty person. If you resist an officer who has reasonable grounds for believing that you are the guilty person, you yourself may become guilty of the crime of resisting a lawful arrest. Consequently it is unwise to resist an arrest by a police officer even though you know you are innocent.

Rights when in jail

If you are arrested and taken to a police station, you have a right to be "booked" promptly. "Booking" is the entry of the charge against you in a book called the "arrest book" or the "police blotter."

Before or after you are booked, you have a right to get in touch with a lawyer of your own choice to advise and represent you. You should

**1960 – Fortieth
Anniversary Year**



**39th Annual Report
July 1, 1958 to June 30, 1959**

**AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York 10, N. Y.**

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**1960 – Fortieth
Anniversary Year**

WORK AHEAD IN HOPE

**39th Annual Report
July 1, 1958 to June 30, 1959**

**AMERICAN CIVIL LIBERTIES UNION
170 Fifth Avenue New York 10, N. Y.**

Price 75¢

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DEDICATION

TO ALL WHO HAVE WORKED
FOR THE GREATEST POLITICAL CAUSE
THROUGH THE AMERICAN CIVIL LIBERTIES UNION
1920 — 1960

PRIME MINISTER HAROLD MACMILLAN, on television in Moscow, March 2, 1959: "Every individual should have freedom to develop his personality. On this foundation, our whole political system is built. We hold that the state exists for man. In our small island, we have thought a lot about political philosophy and we have worked out our system gradually over a period of a thousand years. Of course, the result is not perfect, but we think it represents a good compromise between the rights of the individual and the demands of the state. For the problem of the organized society is really how to combine order and freedom."

ALLEN DRURY, a member of *The New York Times* Washington bureau and author of "Advise and Consent," in an article in his newspaper's Sunday book review section, September 6, 1959: "One gradually arrives, after covering the Government of the United States at its heart for sixteen years, at some sort of philosophy about Congress, about America, and about the American people, in relation to themselves, to their times, and to each other. There are some, I think in the minority, who have arrived at a philosophy of angry and ironic contempt. There are others, I think in the majority, who have arrived at about what I have arrived at—a realization of America's weaknesses, an appreciation of her strengths, and a balance that comes down, even as it looks some quite hard facts in the eye, on the side of hope."

"WORK AHEAD IN HOPE"

BY PATRICK MURPHY MALIN

Men find it easy to look back in anger, to look around them in anger, cursing the darkness; they find it hard quietly to work ahead in hope. But the durable future is always being built by those who discipline themselves to that hard task. The American Civil Liberties Union does its share of righteously angry shouting. But, as its 40th Anniversary approaches with the beginning of 1960, it must more than ever test itself by actual achievement.

Ever since its founding in 1920, the Union has been unique among American private organizations, as they taken together are unique among the institutions which characterize the various nations of the world. Its membership is drawn from all sorts and conditions of people in all sections of the country, and it serves all sorts and conditions of people in all sections of the country. We are concerned with all civil liberties—mainly freedom of belief, communication and association; due process of law, and other kinds of fair procedure; equal protection of the laws, without discrimination on account of any irrelevant consideration of sex, race, creed, national origin, etc.—and we are, as an organization, concerned with nothing but those central guarantees of a democratic government and a free society. The Union performs its watchdog function in all governmental areas—the courts and legislatures and executive departments, federal and state and local—and in some non-governmental areas. Without a large natural constituency of occupation or religion or ethnic origin, it has nevertheless long had wide and deep influence.

In the *courts* we work, not as a legal aid society supplying free counsel to indigent litigants or defendants from the initial stage onward, but usually in the role of *amicus curiae*—friend of the court—at the appellate levels, when the constitutional questions of civil liberties have become distinguished from other questions of law and from questions of fact. Through our cooperating attorneys—now numbering 800 in 300 cities of 48 states (including Alaska and Hawaii, but not South Dakota and Wyoming), and all working without fee—we supply printed briefs and oral arguments on what seem to us to be the civil liberties points involved, not merely in the specific interest of those whose rights are immediately at stake, but chiefly in what we believe to be the general interest of all of us—"we the people of the United States."

In the *legislatures*—from city halls to Congress—we present our views on new bills and existing laws, and on strategy and tactics, in offices and hearing-rooms and lobbies. Such work is more rough-and-tumble than an appearance before the Supreme Court, but we need constantly to remind

ourselves that civil liberties are increasingly affected by the enactment or non-enactment of ordinances and statutes and that by no means all legislative errors can ever be carried to the high courts for correction. The Union cannot throw much electoral weight about, but it can argue—the most honorable way to lobby—and it can stimulate other organizations with bigger battalions.

In the *executive departments*—from municipal police to the White House—we offer protests and suggestions to the administrators who, as society grows in complexity, are left by legislatures and courts to shoulder an increasing proportion of discretion in making the day-in-and-day-out practical and detailed application of general laws and guiding principles. Bureaucracy is inescapable in a complex society—in big business and big labor as well as big government. Our only hope is to prevent it from being any more tyrannical than necessary, and we confront an ever-larger and never-ending task to realize that hope.

In the field of *public opinion*, the Union publishes some pamphlets and makes some speeches, but it lacks the money to make large use of the mass media—partly because, as it is now organized, it cannot confer income-tax-deductibility on its contributors. We have just appointed a committee to see whether the Union—its national organization, plus 27 affiliates in 23 states, with their chapters in 80 communities—is now big enough to warrant becoming two organizations, one for non-tax-deductible activities and the other for tax-deductible operations; whether much or little would accrue in tax-deductible contributions, and whether the recent phenomenal growth in members—who serve as informed citizens, not only as contributors—could be continued. Meanwhile, we do what popular education we can, notably by providing facts and ideas to leaders of larger organizations.

We can never express sufficient gratitude to our members for the quintupling of their numbers and contributions during the last ten years; there are now about 45,000 members contributing about \$450,000 exclusive of locally-raised-and-spent special funds and exclusive of bequests. Moreover, the pattern of our income, as shown by the table below, makes us even more appreciative—for the surest financial foundation on earth, and exactly the kind which a civil liberties organization, hewing to the line and letting the chips fall where they may, should have.

Under \$5:	6,750 — 15% —	contributing a total of \$ 20,000
\$5-9.99:	22,500 — 50% —	" " " " 130,000
\$10-24.99:	13,500 — 30% —	" " " " 175,000
\$25-49.99:	1,350 — 3% —	" " " " 40,000
\$50-99.99:	450 — 1% —	" " " " 25,000
\$100 or over:	450 — 1% —	" " " " 60,000

About two-thirds of our cash budget—\$300,000—goes to pay the frugal salaries of the sixty executive and clerical members of the skeletal staffs of the national organization and those fourteen affiliates which have any paid personnel. But the work of staff members is multiplied five or ten times by the unpaid but professional services of national and affiliate and chapter board and committee members, correspondents in the 27 states still without affiliates, and cooperating attorneys (who deserve the seventh heaven). Our product is not automobiles, but the work of our paid and unpaid personnel; and we hope that our members note how big that output is and how little it is burdened with overhead, and thus feel they get their money's worth.

Fortunately, though the ACLU is still unique in the combination of characteristics outlined above, the 1950's have witnessed a mounting activity in defense of civil liberties by many organizations—educational and civic, religious and labor, minority-group and inter-group. Among the academic and semi-academic enterprises there are: the Arthur Garfield Hays Civil Liberties Memorial Program of teaching and topical research in the New York University School of Law, established in 1957 by J. David Stern with the special help of Arthur's ACLU associates; the Florina Lasker Fellows Program in Civil Liberties and Civil Rights of Brandeis University, established in 1958 in memory of a former national ACLU board member by her sisters (one of them, Loula Lasker, a present member of our New York City affiliate board); and the Center for the Study of Democratic Institutions in Santa Barbara, California, on which is now concentrated the attention of the Fund for the Republic, established in 1952 by the Ford Foundation. The leading instrumentality for the exchange of information and ideas, among 125 organizations of the various kinds mentioned at the beginning of this paragraph, is the National Civil Liberties Clearing House of Washington, D.C., founded in 1948 largely through the initiative of Roger Baldwin. Those organizations, as a whole, are much more active in regard to non-discrimination than due process or free speech, and much more in the field of public opinion than governmental areas; but they are most useful—through, for example, the National Association of Intergroup Relations Officials, with headquarters in New York.

The removal of *discrimination*, South and North, is still the nation's most pressing unfinished business. In the first session of the 86th Congress, the filibuster rule was just slightly changed, and the only legislation was the extension of the life of the Civil Rights Commission—whose own recent report, admirable as far as it went, was chiefly remarkable for showing how little had been accomplished by the Civil Rights Division of the Department of Justice—even with the additional means authorized by the Civil Rights Act of 1957 and even in the primary matter of the vote. Moreover, despite the emphasis on non-

discrimination in the recent report of the Republican Committee on Program and Progress, the exigencies of presidential politics are likely to prevent Republicans and Northern Democrats from producing in the 1960 Congressional session more than a lot of grandiloquence. From the federal government, therefore, we can realistically expect only a continuation of admirable court decisions (like the Supreme Court's October 12 upsetting of a Negro's conviction in Mississippi because of the systematic exclusion of Negroes, as non-voters, from jury lists) and gradually intensified executive action (like that of the President's Committee on Government Contracts in the last several months, since the appointment to its top staff post of Irving Ferman, former ACLU Washington office director).

But the biggest and best news is that, with regard to public school desegregation, the change in the tide of opinion and action which began in September 1958 among white Southerners (herewith thanks and homage to the Southern Regional Council, headquarters in Atlanta) is continuing, not rapidly but steadily. The businessmen of Little Rock—typifying the chief influence at work all through the South—have taken the lead in re-opening its schools; "massive resistance" has crumbled in bellwether Virginia; *The Charleston (South Carolina) News and Courier* is editorially forsaking total segregation; former Governor Arnall of Georgia has announced that unless the schools of his state are kept open—segregated or not—he will seek election on that platform in 1962; and the 1959 Southern Governors' Conference was dominated by Hodges of North Carolina and Collins of Florida. Alabama and Mississippi will soon be alone in futile defiance of the irresistible tide—as they are now conspicuous, though by no means alone, in the outrage to which the ACLU is currently trying to awaken state and local bar associations: the refusal of white lawyers to represent Negroes in even due-process or free-speech cases.

Removal of discrimination in employment, housing and public facilities—by state and local government action, and by individual and private-group action—continues in the South as well as in other sections of the country, where there are not only more and more Negroes, but also Puerto Ricans, Mexican-Americans, Asian-Americans, Indians and Jews. (See recent surveys of the National Association for the Advancement of Colored People, the National Urban League, the American Jewish Congress, the American Jewish Committee and the Anti-Defamation League of B'nai B'rith.) But in many "northern" localities the problem grows faster than the solution, and it is almost universally true that much remains to be done before "the North" can justifiably claim it has shouldered its own share of a national and international obligation.

Organized *labor*, having sown the wind of neglect, has this year reaped the whirlwind, even from friends. For example: A. Philip

Randolph, president of the Pullman Car Porters and a National Committeeman of the ACLU, has indicted the AFL-CIO leadership for failure on the bias front, in the unions themselves and in the outside community; and the ACLU, which began in 1942 to urge the unions voluntarily to create an internal democracy of free speech and due process, has now decided also to support federal legislation to that end. On the nation-wide *due-process* front, recent studies serve to remind us that classic problems never die but live on to plague the "common people," who are not intellectuals and rarely make a headline. The ACLU's Illinois Division issued in January a sobering report on *Secret Detention by the Chicago Police*. The Pennsylvania Bar Association Endowment has just issued *The Eavesdroppers*, a startling report on wiretapping, etc. The Arthur Garfield Hays Civil Liberties Program is currently engaged in investigating double jeopardy and other troubles arising from federal and state jurisdiction.

Intellectuals of one degree or another have made plenty of headlines in the *television* quiz scandal, and it is to be devoutly wished that the housecleaning now in motion may extend to improving the industry's service to civil liberties through greatly amplified and varied presentation of serious public questions (in the 1960 campaign, for a start); this would help stave off government censorship of specific program content, while preserving government responsibility for general public-interest operation of what is in fact a public utility. As for other *censorship*, nearly everybody else in government seems to be out of step with the Postmaster General in his crusade for tighter restriction; but justifiable concern over juvenile delinquency is causing some Protestant groups and women's organizations to lean toward official censorship and private boycott, at the very moment when some Catholic groups are moving the other way. On the *church-and-state* front, the fundamental problem continues to be, not Senator Kennedy and the Presidency, but public-funds-for-religious-schools and public-schools-for-religious-purposes; and on that problem the Baptists, now doing the yeoman work for non-"establishment," are going to need all the help they can get. In the *academic freedom* field, educators must step up their soul-searching about the National Defense Education Act of 1958, not merely because of its highly-publicized oath-and-affidavit clause, but much more importantly because of its almost-ignored portent of manifold governmental regimentation following in the train of federal aid.

Free speech suffered setbacks when the Supreme Court, by a bare 5-4 decision in the Barenblatt case, upheld the constitutionality of the House Un-American Activities Committee; and when the House further prolonged the life of the Committee under the same old mandate and management. But it is significant of the country's present understanding of the problem of national security and individual liberty (in this year

of international ice-melting) that—despite the urging of the American Bar Association's special committee on Communist tactics, strategy and objectives—the bills to "curb the Court" withered on the vine in the 1959 session of Congress; and for that we may pardonably claim some credit for the ACLU's prominently-published analysis of the committee's proposals.

Civil liberties can never be permanently "out of the woods." But they are a lot better off than they were in 1954, when the ACLU was approaching its 35th birthday. And they will be a lot better off in the future than they might otherwise be, if—for the ACLU—life begins, once again, at forty!

This report was written by Mitchel Levitas, a New York newspaperman; and supervised and edited by Alan Reitman, our associate director, with the help of other members of the national staff, as well as our affiliates' staffs and officers. To them, and the hundreds of ACLU volunteer workers throughout the country, this final word is offered in insufficient token of special gratitude.

I. FREEDOM OF BELIEF, EXPRESSION AND ASSOCIATION

THE GENERAL CENSORSHIP SCENE

1. Books and Magazines

The Courts. The Postmaster General's authority to censor material that passes through the mails received a serious setback when a Federal District Court judge in New York ruled that D. H. Lawrence's romance, *Lady Chatterley's Lover*, was not obscene. The verdict upset a ban imposed on the sale and distribution of the novel by Postmaster General Arthur E. Summerfield. The decision, which is being appealed by the government to the U.S. Court of Appeals, tightened the rules on the discretionary authority of the Post Office. Judge Frederick vanPelt Bryan observed that Summerfield had applied tests to the book which he "understood" the U.S. Supreme Court had laid down in determining questions of obscenity. But Judge Bryan declared that he had found no evidence that the Postmaster has the final power to make such interpretive judgments. "Whatever administrative functions the Postmaster General has go no further than closing the mails to material which is obscene within the meaning of the statute," he said in his opinion. "This is not an area in which the Postmaster General has any 'discretion' which is entitled to be given special weight by the courts. (To) interpret the obscenity statute so as to bar *Lady Chatterley's Lover* from the mails would render the statute unconstitutional in its application, in violation of the guarantees of freedom of speech and the press contained in the First Amendment."

It is essential to the maintenance of a free society," added Judge Bryan, "that the severest restrictions be placed upon restraints which may tend to prevent the dissemination of ideas. It matters not whether such ideas be expressed in political pamphlets or works of political, economic or social theory or criticism, or through artistic media. All such expressions must be freely available."

The New York Civil Liberties Union, which praised Judge Bryan's opinion, had filed a brief with the court arguing that under the U.S. Supreme Court's decisions it had been determined as law that the First Amendment prohibits the application of obscenity to all but "hard core" pornography and that the Lawrence classic did not fall in that category. The jurist did not rule directly, however, on the ACLU's long-held position that the Postmaster General does not have constitutional power to pre-censor.

The U.S. Court of Appeals in Washington, D.C. issued an injunction

preventing the Post Office from interfering with the mail of a film dealer accused of mailing 14 films found obscene and objectionable. The dealer, Wallace Hamilton, on whose behalf the Union filed a brief, claimed the Post Office was interfering with *all* his mail, not only the 14 banned films; that the decision on legality was left to the discretion of a low-ranking postal employee; and that prior restraint on his future business was being exercised because of past illegal activity. On this last point the ACLU brief relied on a U.S. Court of Appeals decision in the case of the nudist magazine *Sunshine and Health* (See last year's *Annual Report*, p. 10), which held that the Postmaster's orders must be limited solely to activities previously found to be unlawful.

For the first time a state Supreme Court officially rejected the common belief that links the reading of crime comic books and juvenile delinquency. Supporting the ACLU's argument that there is as yet no conclusive evidence supporting a causal relationship between reading such crime books and the commission of actual crimes, the California Supreme Court declared in a unanimous opinion: "The record fails to show that there is a clear and present danger that the circulation of crime comic books in general will injure the character of persons under the age of 18 years and inculcate in them a preference for crime." The ACLU of Southern California had filed a friend-of-the-court brief in the action, which set aside a Los Angeles County ordinance that made it a misdemeanor to sell and circulate specified crime comics to persons under 18. Additional grounds on which the state court made its decision were that the ordinance violated free speech and free press provisions of both state and federal constitutions since it was too vague, that it denied distributors equal protection of the law by establishing "arbitrary and unreasonable exemptions," and that it failed to specify "a clearly defined standard of guilt."

U.S. Post Office Censorship. The ACLU testified at length against a bill passed by the House that extended the censorship powers of the Post Office Department. Appearing before a House Postal Operations subcommittee, board chairman Ernest Angell warned that though censorship is "inherently bad," the pending legislation was particularly dangerous because it proposed wider authority for Postmaster General Summerfield—"a public official with (a) notoriously poor record of judgment . . ." The Union levelled three chief accusations against the bill. First, the unlimited discretion granted the Postmaster General to impound incoming mail by applying to such material the vague standard of "the public interest" was "clearly unconstitutional," Angell said, in view of the Supreme Court's reversal of a Texas municipal film ordinance that used almost identical language.

Second, the Union objected to extending the life of a 20-day administrative impounding order to 45 days. The Union said this would have

the effect of destroying a business without requiring any previous hearing and without any final determination by the Postmaster or a court that the material impounded actually was obscene. In addition, the ACLU testified, since there was no practical method of separating allegedly obscene mail from the disseminator's other mail, he is forced to expose his private correspondence to the Post Office. These provisions, said the Union, involve questions of unlawful search and impounding without a warrant in violation of the First and Fourth Amendments to the Constitution. The Union's third principal objection to the measure raised the general issue of censorship. "The powers of the censor are almost inevitably abused," Angell said, pointing to the fact that in recent years every act of the Postmaster in banning "obscene" material from the mails and every act of a movie censor board has been overturned by the courts as violations of freedom of speech and press. He suggested that instead of attempting to "evade" the court rulings that have narrowly defined obscenity, such as the U.S. Supreme Court opinion in the *Roth* case (*See 1956-1957 Annual Report, pp. 37-39*), the Post Office conform to such decisions. He further recommended that if the criminal obscenity statutes are deemed ineffective, the Post Office, like the Customs Bureau, should be required to bring an action in federal court to condemn the material.

Angell also took the occasion to condemn criticism by the Post Office of opposition to its censorship activities and of its refusal to accept court rulings on obscenity. The Post Office, he said, "has even gone to the extreme by attacking attorneys who have procured favorable court decisions for their clients. These lawyers," Angell continued, "are no more to be condemned than the attorneys for the Post Office who seek to obtain an 'obscenity' finding as to material which is later found by the courts to be protected by freedom of the press."

The first issue of *Big Table*, a literary magazine published in Chicago, was banned by postal authorities on the ground that two short stories contained "obscene, lewd, lascivious and filthy" prose. The Illinois Division of the ACLU believes *Big Table* is published with "serious literary purpose," however, and defended the magazine before a Post Office hearing examiner and has taken the case to the federal courts, to protect First Amendment rights. The Illinois Division said the Post Office Department "would do well to remember that its job is to deliver the mail, and that Americans are free to decide what they will read." The hearing examiner, however, said that although the magazine "would not arouse the interest of the average reader in sex, it goes beyond the customary limits of candor in literature."

The issue of alleged obscenity in movie advertising occupied postal officials, at least one state legislature and newspapers (*see below*). The focus of attention was the decision by a Post Office Department hearing

officer that postcards with a photograph of Goya's *The Naked Maja* could not go through the mails, although the Department conceded that neither the card nor the message on the back were obscene. It was the combination that officials objected to. The decision promptly raised the objections of the New York Civil Liberties Union which said it involved "a grave constitutional question of prior restraint." The questionable nature of the case was seen in the Justice Department's decision not to defend the Post Office's decision.

Foreign Propaganda. The massive censorship program aimed at foreign periodicals which the Post Office has conducted for the last nine years in the face of repeated ACLU protests may be headed for a U.S. Supreme Court test. Previous legal challenges have been mooted when, after cases were filed or scheduled for filing, postal authorities released the material in question. Such was the case in a suit filed by the Illinois Division of ACLU against the Chicago Postmaster, but a parallel suit for damages against the official still is alive, thus making a court test possible, but more difficult. The Chicago suit was filed on behalf of Mrs. Helen MacGill Hughes, managing editor of the *American Journal of Sociology*, against Chicago Postmaster Carl A. Schneider for illegally detaining two magazines sent to her from Prague, *Czechoslovak Woman* and *Czechoslovak Youth*. She demands their immediate delivery and \$1,000 damages. The legal action was unusual since it made Schroeder a defendant as an individual, not a government officer, on the theory that he was acting beyond the scope of his authority and therefore could not have the protection of performing an official act. The ACLU contends that no law exists authorizing the Post Office to determine what is propaganda, let alone withholding or burning material it has so judged. The aim of the suit, said the Illinois Division, is "to force federal officials to recognize their constitutional duty to deliver even mail criticizing the United States and let each citizen decide for himself what is propaganda and what is truth." Until last December persons to whom foreign periodicals were mailed were not even notified that the material had reached this country but was considered "non-mailable" to them. In the Hughes case, the editor was notified in February that the two Czechoslovak magazines were being held and could be delivered only if they were "not for dissemination" and if Mrs. Hughes signed a form stating that she had "ordered, subscribed to or desired" the publications. In her suit Mrs. Hughes declared that because of her professional activities she may "disseminate" the magazines and their contents. She believes she was put on the mailing list of the magazines because she and her husband attended a UNESCO conference in Prague recently. After Mrs. Hughes declined to sign the required forms she was informed that her protest was being considered in Washington. The history of the current case stretches back to the early 1950's when

security tensions were at their peak. Libraries and research scholars, as well as average citizens, discovered they could not obtain publications from behind the Iron Curtain to which they had subscribed. Protests by the ACLU and other groups brought the lifting of the ban for libraries and scholars and then for non-specialists. The last government move has been the issuance of post card notices such as Mrs. Hughes received to deal with unsolicited material from overseas.

Customs Bureau. The seizure and release by U.S. Customs inspectors of an English version of Jean Genet's *Our Lady of Flowers* has resulted in charges of censorship by the ACLU and a denial by the U.S. Treasury Department that Customs officials practice over-all censorship. The case began when Daniel Bell, a member of the ACLU Board of Directors, had the book confiscated upon his return from Europe. He was told, he said, that because the book was published by the Olympia Press of Paris it was presumed to be "obscene," as were all other publications of the same firm. Bell was shown a list of books by the Customs inspector supposedly used as a guide for confiscation, including Samuel Beckett's *Molloy* and J. P. Dunleavy's *The Ginger Man*. Following a denial by Customs officials that a list of banned books exists, ACLU executive director Patrick Murphy Malin wrote an official letter of protest to Treasury secretary Robert Anderson charging that the reported ban on all Olympia Press books was an "indiscriminate" seizure. "Exclusion of all the titles of a given publisher," Malin said, "inevitably results in invasion of the individual's freedom to read, a right guaranteed by the First Amendment." Malin also emphasized that the existence of a list of proscribed books raises the issue of whether the determination of obscenity was made by judicial decree "or merely by administrative fiat." In reply, Acting Treasury Secretary A. Gilmore Flues denied that the Customs Bureau seized all Olympia Press books, but did not answer whether the Bureau maintained a general list of banned volumes. Flues admitted that Bell should have been informed of his right to contest the non-admittable classification on the grounds that *Our Lady of Flowers* was a so-called classic or a work of established literary or scientific merit.

State Legislation. Although Omaha's obscene literature ordinance was ruled unconstitutional on the grounds that its language was "vague and uncertain," a New Mexico state law defined pornography as material "designed in its entirety to stimulate human senses in a manner and to a degree offensive and corrupting to public morals." The new law lifted the state from the ranks of hold-outs among states that did not have an anti-obscenity statute on the books. In the reversal of the Omaha ordinance, the Nebraska Supreme Court took particular objection to the vague wording of a state anti-obscenity law which made it illegal

to sell publications "which, read as a whole, are of an obscene nature." The book in question was *Peyton Place*.

In Maryland, the American Book Publishers Council urged the veto of a bill restricting publications to what would be considered suitable for children under 18. The Governor signed the bill, however, although there was no early rush of convictions.

Massachusetts passed legislation by a narrow margin setting up a seven-member Obscene Literature Control Commission that would recommend prosecution to the Attorney General whenever periodicals considered obscene under the state law are "on sale or about to be placed on sale." The Civil Liberties Union of Massachusetts and other groups representing civic groups, church organizations and newspapers worked to defeat the bill, but their efforts succeeded only in eliminating phrases from the bill that directly encouraged censorship. Further opposition came, too, from the state Attorney General, who said that existing laws were sufficient to prevent the sale of pornography, and from the state representative who originally introduced the measure in 1957, but who now said he believed it would impose unconstitutional prior censorship. In neighboring Rhode Island, a Superior Court judge voided the state's 62-year-old obscenity law as "unconstitutional" on the grounds that the law was "virtually a carbon copy" of the Michigan statute reversed by the U.S. Supreme Court in the 1957 Butler case. In that decision the high court held that any literature banned because it was believed harmful to youth also interfered with the freedom of speech and choice of adults. A unanimous Virginia Supreme Court found the state's anti-obscenity law void on the same ground. A public debate on Rhode Island's Commission to Encourage Morality in Youth featured the secretary of the Commission and the chairman of the new Rhode Island Civil Liberties Union. The former defended the Commission's circulation of blacklists to book dealers and police by saying that methods used in the courts would only flood dockets and delay justice while more smut was sold and read. The ACLU spokesman pointed out that prior restraint was no solution to a problem best solved through education, good taste and the post-publication safeguards provided by existing anti-obscenity laws.

On the West Coast, legislators in Washington, Oregon and California scored mixed results in proposals to combat obscenity. Washington state lawmakers defeated a catch-all measure creating a censorship board in the Senate but passed two bills in the House. One measure made it a misdemeanor to deal in obscene material of any kind and the other designated prosecuting attorneys of each county to seek an injunction against such material. Defendants in such cases would be entitled to a jury trial with a judgment by the court to follow within two days of the conclusion of the trial. Oregon courts declared as unconstitu-

tionally vague an anti-obscenity law passed in the last session of the legislature, while in California state representatives beat down five proposed changes that would tighten present anti-pornography laws after vigorous anti-censorship protest was registered.

The Local Scene. Increased activity in Cincinnati has resulted in seven convictions in less than two years under the city's anti-obscenity ordinance. Much of the public climate has been created by the Citizens for Decent Literature (*see below*), a group that in the fall of 1958 sponsored a national conference on obscenity. The group believes that although existing laws are adequate, enforcement is frequently "apathetic" and the public is "unaware of the severity of the problem."

Two incidents in California cities illustrate various aspects of local censorship. In Sacramento, six self-service newsstand racks selling *The Weekly People*, a publication of the Socialist Labor Party, were banned by the City Council. In San Francisco, police demanded that a nude painting entitled *Venus* be removed from a gallery window as pornographic. The owner refused and the ACLU affiliate in Northern California has expressed willingness to defend anyone arrested in the controversy.

In another affiliate action, the American Civil Liberties Union of Oregon protested the intention of the Benton County District Attorney to "sweep from Benton County sex magazines that go beyond what is felt to be the bounds of decency." A contrasting view of local censorship action has been submitted by an advisory committee set up by the Arlington, Va. County Board to consider the wisdom of recommending a local ordinance. The answer: it isn't wise. The committee said that although the state law should be clarified and tightened by means of more precise definitions, there was "little or no advantage" in adopting new legislation. The volume of pornographic material was small, the study concluded, periodicals play "a small part" in the pattern of delinquency, parents play "an important role," and so-called "voluntary" agreements with dealers tend to become coercive. The committee urged more community recreation facilities and a better library program.

Two nudist magazines which last year won a U.S. Supreme Court verdict that they were not obscene still are meeting harassment in various communities. Oklahoma police arrested two men on charges of selling *Sunshine and Health* and *Sun*. In New York City, the metropolis is being sued by publishers of the same magazines for \$2,000,000 damages for allegedly suppressing the publications after the high court ruling. (*See last year's Annual Report, p. 10.*)

An end to legal action has been reached in the case of Lawrence E. Gichner, a Washington, D.C. businessman who has written widely on the subject of erotica, accused of violating a local statute prohibiting the possession and exhibition of indecent materials. The seized crates

of literature, figurines and photographs were released by police to a newly-established public foundation and in return Gichner waived his right to sue the Washington Police Department for illegal detention or illegal seizure. The ACLU strongly protested the seizure of Gichner's scholarly data and cooperating attorneys of the Union filed friend-of-the-court briefs on his behalf.

NODL and Other Private Groups. The latest example of a community in which a list of "offensive" publications compiled by the National Office of Decent Literature has been used as the basis for official censorship action is Watertown, N.Y. There, the local newspaper reported that a "quiet campaign" undertaken by law enforcement officials has resulted in the NODL list being circulated to some 80 book and magazine dealers. The local District Attorney, moreover, declared that under state law he is fully empowered to institute civil and/or criminal action against dealers who refuse to comply by removing the NODL targets from the stands. Two smaller communities, Valdosta, Ga. and Bay County, Mich., have abandoned the NODL list as a guide to banned publications. And in San Mateo County, Cal., a local group that intended to use the NODL list collapsed when public claims of vast support were deflated.

Described by the Indiana Civil Liberties Union as "a Gestapo maneuver that puts us to shame," a daylight raid by city police and sheriff's deputies of Marion County, Ind. was made on 16 drug stores, a distribution warehouse, a variety store and a book store in Indianapolis. Confiscated were 1,500 copies of more than 70 magazines, many of which are on display at newsstands from coast-to-coast. Behind the raid was the Citizens Committee for Decent Literature, a mid-west organization that is seeking expansion on a national scale. The action by the group aroused the scorn of newspaper editorialists as well as that of the ICLU. "Yesterday's whole procedure," commented *The Indianapolis Times*, "opens channels dangerous to the entire community. It could logically proceed to total censorship of books, motion pictures, television—even sermons to force the whole community to conform to the standards of a self-appointed few."

Textbooks. A resurgence of attempts by local and national right-wing groups to censor textbooks and other instructional materials has been noted by several groups, including the ACLU, which has been involved through its affiliates in combatting local instances of attempted censorship, and the National Education Association. Some of the vigilante groups, espousing such themes as "common-sense economics," favor the creation of local textbook review committees which label publications and authors as subversive, socialistic or communistic. Such groups are also frequently ranged alongside critics of the public schools

who urge a return to the three R's without "fads and frills"—vocational, office and home arts training. One group, for example, America's Future, Inc., has set up a textbook evaluation committee whose aim will be directed particularly at history and social science texts. Schoolbooks on these subjects in the East Paterson, N.J. school system were "cleared" by school officials after 11 of the texts used were criticized in a book by Prof. E. Merrill Root, *Brainwashing in the High Schools*. In Levittown, L.I., however, authorities withdrew two articles used in supplementary reading by sixth-graders after their content was questioned in an editorial in the *National Review*, a conservative publication.

Another group active in the stepped-up drive against certain textbooks has been the Daughters of the American Revolution, whose members have sought the elimination of various volumes used in classrooms. In Connecticut DAR officials were refused a list of all texts used in the state's primary and secondary schools and in North Carolina the legislature killed a bill inspired by the DAR and other groups which would have put laymen on the State Textbook Commission. The Commission is composed of 12 professional educators who recommend books to the public schools. Florida and Illinois were other states in which legislatures defeated attempts to censor textbooks. In Florida the ACLU was injected into debate over the bill when one of the housewives who was testifying in its favor declared that a political science text she had examined portrayed the Union in the role of "Robin Hood." And a state representative complained that a high school textbook praised the ACLU as a group "dedicated to the overthrow of our government." The Florida CLU fired off a telegram to the critic demanding a retraction, but none was made. Neither have Florida newspapers printed the affiliate's denial of the charge, although another Florida state representative did defend the ACLU on the House floor.

Libraries. A flurry of censorship by public libraries appeared aimed at the best-selling novel *Lolita* (in Northern libraries) and at allegedly pro-integration sentiments contained in children's books (in Southern libraries). Institutions in Nutley and Newark, N.J. refused to buy copies of Vladimir Nabokov's book and said they wouldn't accept it even as a gift. The ACLU of Washington State met with librarians and is studying the book purchasing policy of the Seattle Public Library after it refused to buy the novel, and the Greater Miami chapter of the Union termed "incredible" the city library's decision to restrict the book's circulation after purchasing it. The affiliate said that since the book was bought with tax funds, it should be available. A little work, imagination and publicity showed how a Menlo Park, California member of the ACLU stirred officials of the San Mateo city and County libraries to stock *Lolita* after an initial decision to ban the book. Richard G. Gould said that after reading about the book's difficulties in Cincinnati

in the ACLU's weekly news service, he inquired locally of library officials and forwarded the fruits of his research to *The San Mateo Times*, which ran a two-column story. In less than a week, both libraries stocked the book in response to numerous public inquiries. In Cincinnati, the adventures of *Lolita* had no such happy ending. The Cincinnati ACLU affiliate gave a free copy of the novel to the library director after he claimed that budgetary problems were behind the decision not to make it available to the public, but five days later *Lolita* returned to the CCLU office with the explanation by library officials that they had simply re-affirmed their original decision not to buy the book.

Pigs and rabbits were storm centers in libraries in Alabama and Florida. *The Rabbit's Wedding*, a children's book about the marriage of a white rabbit and a black rabbit, was removed from general circulation by the Alabama Public Library Service Division, which lends books to libraries throughout the state. The move, which still left the book available on a reserved basis, was taken after complaints that the book reflected an integrationist attitude. The children's story remained on the shelves of the Orlando, Fla. public library system despite charges that it was "an amazing example of brainwashing." As for the *Three Little Pigs*, they danced into the racial storm after a Miami segregationist said he would try to get it off the state's bookshelves because a new version involved black pigs, white pigs and black-and-white pigs. The Georgia Board of Education voted to require a stamp of approval from its literary committee on all library books after a Board member warned that pro-integration literature was worming its way into the libraries. *The Macon Telegraph* commented editorially that although it favors segregation, it disapproves of the censor's stamp.

Handbills. A police ban on the distribution of leaflets by the Socialist Labor Party was condemned by the Cleveland Civil Liberties Union as a violation of freedom of the press. Police had stopped the distribution on the grounds that recipients were littering the sidewalk outside the Public Music Hall. The ACLU of Southern California is carrying to the U.S. Supreme Court the test of the constitutionality of a Los Angeles ordinance which requires that all leaflets contain the names and addresses of both the publisher and distributor. The defendant maintains his right to anonymity is protected by the federal Constitution. The atom age has spurred at least two prosecutions for distributing handbills. In Champaign, Ill. legal action against three University of Illinois students was dropped by police after the Illinois Division of the ACLU attacked the constitutionality of the city's anti-handbill ordinance. The students were distributing a leaflet entitled "What Can You Do for World Peace." And in Brooklyn, N.Y. the Sanitation Department handed out a summons to a person distributing material of the Sane Nuclear Policy Committee, but two days later said

it would not appear in court after the group took its case to the New York Civil Liberties Union.

2. Motion Pictures

The Courts. Decisions by the U.S. Supreme Court, a Federal District Court judge in Chicago, and the Pennsylvania Supreme Court struck hard at state and local movie censorship. Despite such reversals in the courts, however, anti-obscenity drives were launched in several states and municipalities, largely because of a sharp upsurge in the activity of religious and women's organizations.

The high court wrote six opinions in unanimously upsetting New York State's ban on the movie version of *Lady Chatterley's Lover*. The verdict was hailed by the ACLU, which had supported the case, although only Justices Black and Douglas concurred in the basic ACLU position that all prior censorship of movies was unconstitutional. The main opinion by Justice Stewart explicitly avoided this issue, apparently leaving intact the right of New York or any other state to preview and prohibit pornographic motion picture scenes. Although the verdict was unanimous, a five-man majority held unconstitutional one portion of the New York film-licensing law. That section bars movies showing "acts of sexual immorality, perversion or lewdness" as being "desirable, acceptable or proper patterns of behavior." Four other members joined on narrower grounds. The majority opinion held the provision of the law unconstitutional because it banned films which appear to approve of immoral conduct but which are not in themselves obscene. "What New York has done," said the opinion, "is to prevent exhibition of a motion picture because that picture advocates an idea—that adultery under circumstances may be proper behavior. Yet the First Amendment's basic guarantee is of freedom to advocate ideas. The state, quite simply, has thus struck at the very heart of constitutionally protected liberty. (The Constitution) protects advocacy of the opinion that adultery may sometimes be proper, no less than advocacy of socialism or the single tax. . . ."

The Federal District Court in Chicago issued a ruling that may have wide repercussions in various communities seeking to restrict the showing of certain movies to adults. As a response to numerous legal decisions overturning outright banning of specific films, many localities are turning to classification of films according to their "acceptability" to certain age groups. In deciding that Chicago's "over 21" ordinance was vague and indefinite, Judge Philip L. Sullivan declared: "A picture is either 'obscene' or it is not. And this is true of the other standards mentioned . . . None of these criteria can change with the age of the beholder." He referred to U.S. Supreme Court decisions holding that a censorship statute is unconstitutional if it is so vague as not to give

censors a rational guide to action. This, Judge Sullivan said, was certainly the case with this particular provision. Judge Sullivan's opinion was issued in the case of *Desire Under the Elms*, first released in Chicago more than a year ago, and given a "limited" permit by the six-woman police censor board after the Legion of Decency gave it a "morally unobjectionable for adults" tag. Both labels are the equivalent of "For Adults Only."

The Pennsylvania Supreme Court reversed the obscenity conviction of the operator of a drive-in theater who was arrested, sentenced to three months in jail and fined \$200 for showing the movie *Uncover Girls*. The case had been in the courts since October, 1956. The state ACLU affiliate filed a brief on behalf of the defendant. The brief argued that a section of the penal law forbidding the screening of a film that was "lascivious, sacrilegious, obscene, indecent, or immoral, or such as might tend to corrupt morals . . ." was unconstitutionally vague. However, public furor caused the legislature to pass a new anti-obscenity law conforming to the Supreme Court's *Roth* decision.

State and Municipal Actions. A wide variety of gains, losses and stalemates were registered in eight states where the battle over movie censorship reached the floor of the legislatures. In Pennsylvania a movie censorship bill opposed by the ACLU of Pennsylvania passed the legislature and may become a "model law" other states will seek to follow. The affiliate called the statute "too vague and sweeping," and a court test brought by the motion picture industry and backed by the ACLU is under way. The new law is an effort to replace a pre-censoring statute voided by the courts. The new measure establishes a State Board of Motion Picture Control to decide what films are "obscene," but it could also bar from movie houses or television screens any film deemed "unsuitable for children" if the movie showed as acceptable conduct "the commission of any crime or the manifesting of contempt of law." The ACLU pointed out this could mean an end to viewing *Robin Hood* and *Tom Sawyer*.

Maryland, New York and Ohio considered but turned back bills to classify films for "adults and children," with ACLU affiliates active in opposition. Movie industry spokesmen expect the 1960 legislative sessions in these and other states to focus on the classification technique. Efforts were made in the Kansas legislature to end the state's censorship board; Minnesota adopted a law bringing films and billboards under the anti-obscenity laws; in Virginia a test case of the state's film censorship agency was begun; and in Illinois, in the face of court rulings, several films banned by the police were released.

In two California cases, the ACLU of Northern California represented a store owner convicted of keeping obscene postcards and film for sale although the man said he was simply keeping them as security

for a \$50 loan, and the ACLU of Southern California is considering filing a friend-of-the-court brief on behalf of a Los Angeles theater owner against whom contempt proceedings have been threatened. The exhibitor refused to show eight films, seven of which were said to be educational or experimental, to a legislative sub-committee investigating pornography. He defied a subpoena on the grounds that films, like printed matter, are constitutionally protected as a medium of expression.

A Montgomery, Ala. movie theatre manager refused to show a film because of local conditions that, for once, were not related to protests over alleged obscenity. A. B. Covey cancelled a showing of *The Defiant Ones* because of fear of what local segregationists might do. The movie shows the escape from a chain gang by a Negro and a white man who are chained together for much of the film. Covey, who said he had fought back against censorship before, said that if it had not been for past instances of bombings and other violence, "I'd have told them to go to hell." But he said he feared for the safety of patrons after receiving a telegram of protest from the Montgomery Citizens Council.

Legion of Decency. The show business weekly *Variety* reported that groups of Roman Catholic laymen, "and to a lesser extent the hierarchy itself, are putting unprecedented pressure on state and local authorities" to retain or step up motion picture censorship. Where in the past such attempts were more often made "behind the scenes," *Variety* said, now "they're pretty much out in the open and lobbying vigorously in the name of 'decency' and 'morality' and the safeguarding of the young." In addition to its usual policy of condemning films, the Legion of Decency also may be moving toward a more "positive" approach of recommending movies it believes are particularly worthy. Early in 1959 Bishop William A. Scully, retiring chairman of the Roman Catholic Church's Committee for Motion Pictures, Radio and Television, told a conference that Catholic film-goers are urged to "give positive support at the box office" to promote the production of better movies. Within a month, the Legion of Decency had recommended its first film, *The Inn of the Sixth Happiness*. The Legion reported that during 1958 every American movie reviewed was approved according to one of its three favorable classifications.

The Code. A West Coast Commission of the Broadcasting and Film Commission of the National Council of Churches publicly condemned the "ineffectiveness" of the motion picture code and the current emphasis on films for sex and violence. It promised to prepare a "program" to "assist in creating better motion pictures." The statement, which apparently carried overtones of censorship and private pressure, was promptly criticized by other NCC leaders who eschewed any threat of censorship.

Newspaper censorship of movie advertisements on grounds of obscenity have been strenuously protested by film groups. The Los Angeles

Newspaper Publishers Association, for example, refused to accept ads for *The Naked Maja* containing reproductions of the Goya nude. The Motion Picture Association of America rejected as "unthinkable" a suggestion by the publishers that they be permitted to preview all such advertising. Chicago newspapers demanded that ads for *Anna Lucasta* be cleaned up before appearing and *The Columbus (Ohio) Dispatch* warned that movie advertisements may become subject to future "editing."

3. Radio and TV

Equal Time. Congress passed a bill exempting radio and television news programs from the controversial "equal time" provisions of Section 315 of the Federal Communications Act. The new amendment to Section 315 exempts from equal time demands by candidates during political campaigns "bona fide newscasts, news interviews, news documentaries (and) on-the-spot coverage of bona fide news events." The Congressional debate on the bill showed clearly that regularly scheduled panel news interviews were also freed of the requirements of Section 315. The bill, adopted as a result of a generally-condemned Federal Communications Commission decision in the case of Lar Daly, a perennial Mayoralty candidate in Chicago, continued the obligation of broadcasters "to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance."

In a statement submitted to House and Senate committees considering the amendment, the ACLU warned against broader revision of Section 315, proposed in the bill covering the actual speeches of candidates, because such changes would not only sharply alter the radio-TV industry, but change the shape of political campaigning. The Union supported the exemption of legitimate news shows from the law and such programs which did not provide "use" of a station's facilities on behalf of a political candidate. The ACLU emphasized that its interest in the Section 315 controversy was based on a twin purpose—to achieve "more access to broadcasting opportunities by candidates of the smaller parties, and more broadcasting discussion by the candidates of the two major parties."

The amended Section 315 overturned an FCC ruling which required broadcasters who feature a political candidate in a newscast to give equal time to his opponents. It arose after Daly appealed to the FCC following a TV appearance of Chicago's Mayor, Richard Daley, at a ceremonial function. The FCC upheld the demand for equal time, although previously the requirement had been interpreted to apply only to outright political campaign speeches. The ACLU criticized the FCC ruling in the Daly case. The key words in determining when Section 315 applies,

said the Union, are "use of a station's facilities." Contrary to the Commission's opinion, said the Union, "that 'use' is synonymous with public appearance, we believe a line can—and should—be drawn between bona fide newscasts where a candidate's direct use of the facilities is not involved, and programs—news or otherwise—where a candidate's appearance by length of time on a program or other methods of favoritism, amounts to 'use of a station's facilities.'"

Libel. A major issue under Section 315 has been the question of a station's immunity from libel prosecution if it broadcasts defamatory statements made by a candidate who demands equal time. This matter was finally settled by the U.S. Supreme Court in favor of the station on the grounds that when Congress required broadcasters to grant equal time to opposing candidates but forbade them from censoring such political speeches, the station was inferentially granted immunity. Otherwise, said the Court, "all remarks even faintly objectionable would be excluded out of an excess of caution." The verdict came in the case of A. C. Townley, an independent candidate for U.S. Senator from North Dakota, who had demanded equal time under the law from station WDAY and then launched into a full scale attack on the North Dakota Farmers Educational and Cooperative Union, including the charge that the group was planning a Communist Soviet. The Farmers Union sued for libel, but was turned away by the state Supreme Court on the same general grounds cited by the high tribunal.

The ACLU had entered a friend-of-the-court brief before the U.S. Supreme Court warning that permitting stations to censor political speeches would open a Pandora's Box. "It would permit radio and television managers to deprive millions of Americans of the right to hear—free of prior restraint—the words of candidates for public office, by making such managers the final arbiters of the truthfulness, motives, intent and fairness of comment of a candidate who may make a statement which on its face is or might be defamatory." Other serious effects of an adverse ruling, said the Union, would probably be a sharp reduction in the number of political broadcasts, coupled with a rising ignorance by the population of key issues, as a result of scrupulously fair broadcasters who intend to take every precaution to avoid a libel suit.

Editorializing on the Air. The ACLU reversed a 10-year-old policy in May, 1959, approving the principle of permitting editorializing by radio and TV stations as a means of encouraging "the fullest exchange of information . . . in today's turbulent, complex world." To deny stations permission to editorialize is not furthering public discussion," said the Union in a policy statement. "It is, in effect, a blockade against much-needed discussion." The Union said that such editorializ-

ing should be "clearly identified" as the station's opinion and added the further condition that it be carried out within the framework of general balanced programming, including coverage of the specific subject discussed in the editorial. "There need not be an affirmative seeking out of an opposing view in every instance," said the ACLU statement, "except where the community concerned has no other adequate forum; but it should be made clear that opportunity will be offered for the presentation of a responsible opposing view seeking such opportunity."

Diversity of Programming. The ACLU supported the right of the FCC to request station applicants for a description of their programming. A new questionnaire by the FCC lists various categories to describe the applicant's programming in the fields of religion, news and public affairs and asks for the percentage of time devoted to each. One FCC Commissioner, T. A. M. Craven, had objected to the new form and the agency had asked interested parties to comment. The Union rejected Craven's fear that the FCC was "dictating" program content, declaring that "the mere requirement for . . . information covering broadly defined categories raises no censorship question. The central civil liberties concern," the Union said, "is that stations are not now meeting their responsibility to devote time to discussion of controversial issues and that the Program Service form does serve as a guide to stations and the Commission to enable them to meet this responsibility."

Spectrum Allocation. Although the ACLU has long advocated a study to determine how more radio-TV channels can be opened up to meet the public's need for greater diversity in programming, conflict between the executive and congressional branches of government have so far stalled a step forward in the program. A Senate proposal for a Presidential study commission, backed by the Union, died in the House in the closing days of the 85th Congress when the Administration supported a broader inquiry. The Administration made a similar proposal to the 86th Congress, but that was countered by a proposal by Rep. Oren Harris, chairman of the House Commerce Committee, to create a three-man Frequency Allocation Board to be appointed by the President as well as a new position, Government Frequency Administrator. Harris saw no difficulty in getting information from the military on its assigned space and how it is being utilized. This has been a major stumbling block in past efforts to evaluate spectrum allocations because space reserved for the military is a closely guarded secret. The sole encouraging note was the report that the FCC which governs civilian channels, and the Office of Civil and Defense Mobilization, which controls military frequencies, have undertaken talks aimed at "joint long-range programming." The demand of the ACLU, however, is for speedy action to review the entire spectrum problem. Otherwise,

declared a statement by the Union, "we face the possibility of military demands invading the space now allocated for non-government services, thus cutting into the all too few existing channels through which information is funneled to the public."

Other Actions. The majority of 15 Hollywood television producers polled by *Variety* agreed that advertising agencies, sponsors and networks no longer maintain the rigid blacklists which once were the Bibles of the industry. One producer explained it this way: "I think two things have happened. One, the whole situation has relaxed, and two, those who were really unacceptable have dropped out of the business." The New York State Council of Churches issued a statement during the 1959 legislative session expressing deep concern over the influence wielded by the mass media, but warning that uncritical support of legislation to curb excesses can do more harm than good if it violates basic civil rights. The Niagara Frontier (Buffalo) Branch of the ACLU commended Buffalo TV station WGR for "courage" in presenting a program featuring the Soviet Ambassador to the United States despite a demand for cancellation of the show by a local group. The Ambassador himself withdrew from the program, however, due to "unexpected circumstances."

4. Access to Government News and Public Records

The Federal Scene. The Air Force and the Navy were criticized for withholding potentially embarrassing information. Rep. John E. Moss, who had authored an anti-secrecy bill in the 85th Congress, accused President Eisenhower of flouting the law by permitting the Air Force to keep secret parts of a report criticizing its missile program. The President noted that the Air Force had made public a 37-page summary of the report and said the public interest would not be served by revealing the full document. An accusation against the Navy for allegedly "screening, editing and censoring" material came from Comptroller General Joseph Campbell, the government watchdog on spending. He said the Navy's refusal to turn over information to his auditors could provide an opportunity to conceal waste and extravagance. A detailed report by *The New York Times* on a top-secret atom test, Project Argus, caused a brief furor in Washington. The newspaper said it had suppressed the news for months in the interest of national security but finally decided to make it public when it learned that many scientists involved in the experiment favored public disclosure. Also, said *The Times*, it was faced with the possibility that other news media would break the story first. The Defense Department called a hurried press conference to announce the news after being informed of the newspaper's intention to print it anyway.

Following protests by Senators Richard L. Neuberger and William Fulbright, the International Cooperation Administration rescinded a "gag order" on communications between employees of the ICA's Indonesia Mission and members of Congress. The ban, which came in the midst of controversy over the operation of the Mutual Security Program in Indonesia, was criticized by the Union as "unadulterated censorship." The ACLU said it was aware of the "sensitive political nature of the Mission and that critical public comment on American policy overseas frequently assists Communist propagandists in their campaign to besmirch our foreign aid efforts;" but, added the Union, the gag on the Mission's employees and their families "so that their opinions may not be expressed is a gross violation of the First Amendment . . . demonstrating fear rather than faith in the basic democratic guarantee of free expression." After the ICA rescinded its ban, Senator Thomas C. Hennings, Jr., chairman of the Senate Constitutional Rights Subcommittee, announced a staff investigation to determine whether any other federal departments or agencies attempt to interfere with communications between their employees and members of Congress.

Sen. Hennings introduced a bill that seeks to amend a section of the Administrative Procedures Act to insure the public's right to know. Hennings said the Act now uses such loose language that it is invoked by government officials as authority for denying information. Most of the new bill would replace ambiguous phrases with specific wording.

The Courts. The U.S. Supreme Court ruled in two cases that government officials were absolutely immune from prosecution for libel if their public statements involved policies within their jurisdiction. The decisions meant that private citizens could not sue for libel even if the statements were false or malicious. The high court did not deal with the issue of immunity for newspapers which print officials' statements that later become the basis for a suit, but it was believed that in such instances the rule of "fair comment" would apply. This would, in effect, grant immunity for information media that reported substantially the facts of the statement.

The Maryland Court of Appeals cited freedom of the press provisions of the First Amendment in rejecting a special advertising tax on news media or their advertisers imposed by the City of Baltimore. After the court proceedings began, the city rescinded its ordinance and refunded \$354,807.09 collected under the statute. The court said that a "single in kind tax," such as that on advertising revenue, can weaken a newspaper's power to disseminate news by striking at its source of revenue. "A tax may be just as serious a restraint . . . if enacted . . . by the purest of motives as one initiated and motivated by a hostile political leader."

"Right to know" bills permitting newsmen to study records and attend previously closed meetings have made progress in California,

Illinois, Massachusetts, New Mexico, North Dakota, Pennsylvania and Vermont. Legislation was killed, however, in Texas, Arizona, Kansas, Montana, South Carolina, West Virginia, Mississippi and Wyoming. Some progress was reported in New York in defeating government secrecy when legislators voted unanimously to disclose the names, salaries and duties of legislative employees. The vote came after newspaper stories revealed that scores of political appointees were collecting checks without apparently even putting in an appearance on the job. In the Middle West, a Bloomington, Ind. Circuit Court judge lifted his own restraining order on newspapers from publishing a city annexation ordinance.

ACADEMIC FREEDOM

1. Federal, State and Local Issues

National Defense Education Act. The ACLU condemned provisions of the 1958 National Defense Education Act which invaded the traditional freedom of colleges and universities from possible government control by conferring vastly increased authority on the U.S. Commissioner of Education. The Union statement, signed by executive director Patrick Murphy Malin and Louis M. Hacker, chairman of its Academic Freedom Committee, declared: "Experiment and diversity are chiefly endangered by the 1958 Act, not in its most publicized loyalty-oath provisions (to which we are opposed, as we always have been to such provisions), but in the broad wording of provisions which confer powers on the Commissioner. The wording of such provisions should be narrowed, and more effective consultation-advice-and-appeal machinery should be created to guarantee for educational institutions and the accrediting agencies established by them, their indispensable freedom to protect standards of admission and student performance."

Equally onerous to the Union were the loyalty oath provisions of the Act, which were retained after a close fight in the Senate. As the law now stands, a student seeking a loan from the Government for educational purposes allied with the defense program must take the oath of allegiance and also file an affidavit disclaiming membership in, or support of, any organization advocating illegal overthrow of the government. The loyalty oath provision was condemned by the Union as an "unwarranted invasion of personal rights" guaranteed by the First Amendment. In the field of education especially, noted the Union, the oath requirement is "particularly offensive because it violates the tradition of academic freedom." The Senate action, which came after two days of heated debate, killed attempts to repeal the oath provision based on the grounds that it made students "second-class citizens."

Leading universities and colleges also opposed the loyalty oath, several announcing their refusal to accept federal funds unless the oath were eliminated. In addition to national ACLU efforts to defeat the oath provision when it was being debated on the Senate floor, local affiliates of the Union were active in urging educational institutions and students to protest to the U.S. Commissioner of Education and to Representatives and Senators. The ACLU is considering a constitutional test of the oath provisions.

Fulbright Awards. Elsewhere on the national scene, the ACLU joined with academic circles in expressing grave concern over the refusal by the Board of Foreign Scholarships, which determines Fulbright awards, to confer a grant upon professor Bert J. Loewenberg of Sarah Lawrence College. Because of such protests the Presidentially-appointed Board is conducting a "thorough review" of selection procedures and criteria used in the Fulbright program. The concern is three-fold: persistent reports, despite official denials, that Loewenberg, a history professor, was turned down for "loyalty" reasons without a chance to appear at a hearing and hear the charges against him; the fact that the Board rejected the choice of two screening committees composed of scholars who had nominated Loewenberg; and fear that Loewenberg's rejection may keep top educators from applying for Fulbright awards or serving on various screening committees. The ACLU's major interest in the case came at a time when loyalty was widely assumed to be the issue. The Union urged the Board to "adhere scrupulously" to due process principles in according Loewenberg a hearing. The Board ultimately declared formally that Loewenberg had not been rejected on loyalty grounds. In a letter to the Conference Board of Associated Research Councils, composed of 40 screening committees, the eight members of the committee which screened Loewenberg called on the Board to issue an "open policy statement" clarifying any non-professional considerations which determine Fulbright awards, "emphasizing specifically what criteria of loyalty it follows and by what procedure it judges them." The eight professors threatened to resign if the Board of Foreign Scholarships did not make clear its stand.

The ACLU of Southern California and the American Federation of Teachers are backing a court test of the state Education Code under which probationary teachers in cities with fewer than 85,000 pupils may be dismissed without being told why and without a right to a hearing or an appeal. Probationary teachers in larger communities have these rights. In the small city of Long Beach, however, three probationary high school teachers are suing for reinstatement on the grounds that the local school board was "discriminatory and unfair" in discharging them for not being "good risks" for permanent employment. One teacher was fired for past political

activities, according to the ACLU affiliate, and the other two were dismissed for trying to save their colleague's job. Also in California, faculty members at four campuses of the University of California have voted to guarantee the privacy of their students' opinions from inquiry by future employers. The resolution was adopted after teachers learned that some students feared that their classroom opinions on religion, politics and public affairs might be used against them in looking for jobs after graduation. This issue is being studied by the national ACLU Academic Freedom Committee.

The ACLU of Washington State received the thanks of Obed Williamson who was reinstated at Eastern Washington College of Education after the affiliate's activity on his behalf. Williamson had been dismissed by the trustees during a previous state administration but with a new administration and two new members on the Board of Directors the teacher applied for a rehearing and was reinstated. He charged that his dismissal was a violation of his tenure. A Hunter College, N.Y. professor was reinstated after he was dismissed in 1954 during an investigation of communism on the campus. Charles W. Hughes, who admitted Communist Party membership from 1938 to 1941, was fired after he refused to tell a trial committee the names of other campus Communists. But under a subsequent ruling by the State Education Commissioner (*see below*) under which teachers were not required to name names, Hughes went back before the committee and cooperated by giving other information than identifying other Communists, past or present. A successful appeal aided by the New York Civil Liberties Union has won revalidation of a license for a teacher who was dismissed with this succinct but vague comment: "The Board of Examiners decided that you . . . had not shown the degree of candor to be expected of a teacher." An annual report by the New York City Board of Education on subversive activities disclosed that of a staff of 35,000, 126 were former Communists who investigation showed had left the Communist Party in good faith. Of 13 teachers who were called for questioning during the year about past or current membership in the Communist Party, the report said, seven admitted past membership but said they no longer subscribed to the Party's views; two denied they ever were members; two resigned or retired after being notified of their interviews; and two interviews are still pending.

State Legislation. Affiliates of the ACLU were involved in attempts by legislators in two states to undermine academic freedom. In Indiana, Rep. Chester Franke said the Indiana state university chapter of the Union was one of several organizations he referred to when he demanded to know from the university president why "Communist fronts and Communist-infiltrated" groups are permitted to operate freely on the campus. And in Nebraska, State Senator Jack

Romans attacked an assistant law professor by charging him with membership in the "notorious" American Veterans Committee and in the ACLU. Another University of Nebraska professor was condemned as a twice-convicted felon although the faculty member had received a full Presidential pardon on his conviction arising out of his status as a conscientious objector during World War II. Both Romans and Franke introduced strongly worded resolutions calling for an investigation of the state schools, but both failed to pass. A similar fate was met by a Texas legislative proposal that would have required teachers in all state-supported colleges to sign affidavits that they believe in a Supreme Being.

Allen Ruling. A legal battle that had begun four years ago finally ended in May, 1959. The long court fight stemmed from a New York City Board of Education resolution requiring teachers who were former Communists to identify colleagues they had known in the Party. State education commissioner James E. Allen's ruling that the resolution "engenders an atmosphere of suspicion and uneasiness in the schools" was upheld by the Court of Appeals, the highest tribunal in the state, after two lower courts had similarly affirmed his decision. The Court of Appeals did not rule that as a matter of principle Allen's reasoning was right, but that it had no power to overturn a decision that had not been "purely arbitrary." The majority opinion called it "noteworthy," however, that no other school board in the state "has found it necessary to conduct this type of investigation."

In neighboring New Jersey, the state commissioner of education upheld the dismissal of a Newark schoolteacher who refused to answer questions alleging Communist Party affiliation that were put to him four years ago by the House Un-American Activities Committee.

Issues Within Educational Institutions. The American Association of University Professors censured New York University and Fisk University of Nashville, Tenn. for violations of academic freedom. NYU was cited in connection with dismissals in 1951 and 1953 of Professors Lyman Bradley and Edwin Burgum which the AAUP said were carried out with insufficient evidence, without stating proper causes and without a disclosure of the reasoning employed by hearing tribunals. Fisk University was charged with a "serious violation" of academic freedom by refusing to renew the contract of Dr. Lee Lorch, a former City College of New York professor who had relied on the First Amendment's guarantees of free speech and assembly in refusing to answer all questions of the House Un-American Activities Committee about alleged past Communist affiliations. Dr. George C. Ball, a professor at Superior State College in Wisconsin, has been upheld by the state Supreme Court on his charge that he was dismissed without having a

fair trial. The court ordered him reinstated or given a new hearing. Dr. Ball was discharged on charges of inefficiency, and failure to cooperate with the college president, but he said he was fired for his criticism of some school policies. Ball's reinstatement was notable for the fact that the state's attorney general sharply criticized the dismissal of Ball and said he would receive no further cases in which academic freedom was threatened.

A recent analysis of the state of academic freedom during the turbulent years of the 1950's has been termed "deeply disquieting" by Louis Hacker, a board member of the ACLU and Professor of Economics at Columbia University. A study based on replies by 2,451 social scientists to questionnaires sent out by Columbia Professors Paul Lazarsfeld and Wagner Thielens, Jr. concluded that the majority of college teachers had toned-down their classroom statements, stopped political activity or membership in organizations and had otherwise withdrawn from potentially controversial activities. Hacker commented that an academic climate which had permitted almost 1,000 instances of disciplinary actions mostly concerned with political conduct or belief was made possible because professors had allowed universities to become governed by "non-academic trustees and regents, legislative authorities and an ever-growing body of university administrators—who both apply and succumb to pressures when times are out of joint."

Student Rights. The chancellor of the University of California at Berkeley has upheld a ruling by the dean of students that recognized campus student organizations may not take positions with respect to off-campus issues. The ACLU of Northern California protested the decision. Former California Attorney General Pat Brown (he is now Governor) ruled that discrimination in fraternities with chapters in state-supported schools probably is unconstitutional. The doubt arises over the issue of whether a university simply permits students to become members of such fraternities without granting any privileges in return and whether supervision of the student group is governed by persons having no university connection. Otherwise, Brown ruled, under the equal protection clause of the Fourteenth Amendment a state university without violating the Constitution could not give any aid whatsoever to a fraternity that discriminates. The Indiana University Civil Liberties Union also took up the same issue, requesting the college administration to seek the elimination of such clauses. The affiliate also proposed changes in judicial hearings for students living in Men's Residence Halls to protect due process rights. The Academic Freedom Committee of the national ACLU adopted a proposal calling for the "utmost procedural protection possible" for students facing expulsion because of cheating. The recommendations were for confrontation of witnesses, charges in writing, right to counsel and right to appeal.

Other Cases. Three California conscientious objectors were granted teaching credentials after a state Supreme Court judge had ruled in a fourth case that "moral turpitude" arising out of a conviction for draft evasion was not sufficient grounds for refusing him a teaching license. The applicant, Arthur P. Clark, was convicted after his draft board refused him C.O. status because he said he did not believe in a Supreme Being. A conscientious objector also ran into trouble in West Branch, Iowa when the American Legion pressured Donald Laughlin to resign his teaching contract. Laughlin, too, was convicted under the draft law. The Iowa Civil Liberties Union condemned the forced resignation, but said as there was no actual dismissal, there could be no appeal. ACLU affiliates were also active in Minnesota, where the Branch endorsed a mother's right to take her child out of school and provide her own education through a widely approved correspondence school; in Pennsylvania, where the Greater Philadelphia Branch urged the adoption of an adequate tenure policy for the state's 14 teachers' colleges; and in Cleveland, where the local group urged the state legislature to give non-tenure public school teachers due process rights they now do not enjoy.

2. Pressures Arising from the Integration Conflict

The struggle over school segregation was reflected in universities as well as in local school boards, in state legislatures and inside professional groups. (*See also pp. 70-74.*)

Rowland M. Hill, professor of English at Memphis State University, resigned after he was charged with "disloyalty" for signing a petition advocating integration of the city's public libraries. Seventy other MSU faculty members also signed the petition, but the university president reported that subsequently most of them have "voluntarily" requested that their names be stricken from the list. The university is seeking an appropriation from the state legislature for an expansion program. University president Jack Smith said he was "very embarrassed" by the petition and added: "I've been against integration and always will be, but I recognize the right of others to think as they will." In Louisiana, the cooperation of a Shreveport school board with the local White Citizens Council has drawn the fire of the Louisiana Civil Liberties Union. The ACLU affiliate denounced as a "suppression of freedom of thought" a questionnaire aimed at public school teachers distributed by the Council. The questions sought to learn the teachers' views on integration and if they supported the NAACP. The NAACP, meanwhile, filed a federal court suit demanding the reinstatement of six Negro public school teachers who were discharged when the schools of Moberly, Mo. were integrated. The suit charged the teachers were fired only because of their race. The six had experience in teaching of from

one to 30 years. And in Virginia, a new color line was drawn when the Falls Church school board refused to hire a teacher of Japanese descent because of her race although a member of the board described her as "perhaps even a little better qualified than the others." The rejected applicant, Mrs. Yukiko Tamashiro, is a third generation American of Japanese lineage who received her training at Wheaton College and New York University. She is now teaching at a private school in Virginia. Up North, the Indiana Civil Liberties Union protested the transfer of an Indianapolis public school teacher who was transferred after some parents protested she could no longer be an "effective" teacher because she was a partner in an interracial marriage.

A campaign of harassment against the Highlander Folk School, an adult education school, started by an investigating committee of the Tennessee legislature has been carried on by state and county police and the local district attorney. Behind the "intimidation," said *The Nashville Tennessean*, is the school's "candid advocacy of integration." The legislative probe was conducted under the guise of anti-communism, but the committee dropped charges of subversion because the evidence was "circumstantial." It voted to withdraw the school's charter, however, on a technicality. Nothing was done on that score, however. Instead, county and state police raided the institution in August, 1959 and arrested its 61-year-old educational director, Mrs. Septima P. Clark, on charges of illegally possessing liquor. Three other teachers were charged with unlawfully resisting arrest. The three teachers are white. Mrs. Clark is a Negro. A week later the district attorney petitioned a Circuit Court judge to padlock the school, which trains labor union officials in organizational techniques, as a "public nuisance." The suit alleged that the school "harbors and protects" persons violating the criminal laws of the state. After a three-day hearing, the judge refused to close down the school but did issue a temporary injunction padlocking the main building on the grounds that beer was sold there, without a license. The judge found no grounds for the state's accusations of immorality or the sale of whiskey. The school still faces a further court hearing, however, on the question of whether its charter should be revoked.

A disguised legislative purpose has also been charged in an investigation by Florida's Johns Committee into alleged homosexuality among the faculty at the University of Florida. Observers believe the ostensible aim of the probe was a pretext to deter racial integration. The first Negro is now attending the university's law school under a court order. The Florida Civil Liberties Union, as well as the press, have condemned the state legislative investigation, which so far has caused the dismissal of 15 staff members of the university, public school teachers and state employees. The Florida CLU deplored "the unfairness

of the situation that will have been created if a single innocent person has been expelled without trial before a court where rules of evidence prevail, without the opportunity to be confronted by hostile witnesses, without the opportunity to hear the evidence against him, and without the opportunity to subpoena witnesses in his own behalf." The Florida chapter of the American Association of University Professors also condemned the investigation. A verdict by a three-judge federal court in Arkansas brought only a partial victory to a Little Rock teacher and three others who sued to protect their due process rights under the 14th Amendment. B. T. Shelton asked the court to strike down two state laws, but the court voided one and upheld the other. It voided a statute barring employment of any teacher belonging to the NAACP, but it affirmed a law requiring teachers to list the names of all organizations to which they belonged during the past five years. The statute is legal, the court ruled, because it does not make past or present membership grounds for dismissal or a bar to employment. Shelton had declared that the combined effect of both acts was to force him to disclose membership in an organization and then to deny him employment because of it.

RELIGION

1. Church and State: Education

Religious Teaching. The Illinois Division of the ACLU criticized a "Policy Statement on the Relation of Churches to the Public Schools" issued by the (Protestant) Church Federation of Greater Chicago after 10 years of study. The Federation asked for community comment on the statement before its adoption. The affiliate based its opposition on the strict adherence of church-state separation upheld in numerous court decisions, including constitutional protections for those who profess no formal religious belief. Noting that the church statement regards God as the "ultimate sanction" for moral, spiritual and ethical values in life, the Illinois Division asked: "... What of the minority which is content to find a non-theological basis for ethical values?"

Although the Federation endorsed the separation principle, its urging that church groups initiate discussions with school authorities aimed at "teaching the functional significance of religion for each grade or age-group," was regarded by the ACLU as only "fomenting additional controversy in an already-troubled area." In practice, the affiliate said, a theoretical distinction between "permitted and forbidden religious content" will either be submerged in sectarian instruction or will become the basis of a "neutral" state-engendered religion. Either alternative, said the statement, will result in unconstitutional conduct. The affiliate

also countered the Federation's assertion that "people of differing theological understandings . . . can agree on the many practical ways in which religion functions in the lives of people; and that this way of thinking can be communicated without controversy. . . ." Casting doubt on this conclusion, the Illinois Division asked:

"Is it clear as the Statement assumes that Catholics would agree that the 'consequences of faith in God' can be wholly separated from how one practices one's faith in God? Is it clear . . . that Protestants share Catholics' views (on) birth control, censorship, church bingo or divorce . . .? Or that those who adhere to no organized religion will agree on the many practical ways religion functions in the lives of people?" Concluded the Division's critique: "We sincerely hope that the Church Federation will urge its members to concentrate on religious education in the home and church, supplemented when desired by private or parochial schools. Under our form of democracy, here, not the public school, is where religious education belongs."

A test of religious teaching in the public schools of Dade (Miami) County, which have long been under attack, has been initiated by the Florida Civil Liberties Union in the state Circuit Court. "The operation of the program," said the petition by Harlow Chamberlin, "constitutes a utilization of the state's tax-established and tax-supported public system to aid religious groups to spread their faith . . . (It) has resulted in and inevitably will result in divisiveness because of differences in religious beliefs and disbeliefs . . . (It) effects an unlawful censorship of religion by the authorities of Dade County and a preference of one sect over another." Specifically, Chamberlin objected to the entire range of practices that are the concern of civil liberties groups all over the country. They include reading Bible verses, the Lord's Prayer and other prayers; Bible distribution; use of school facilities for religious instruction after school hours; observance of religious holidays by appropriate pageants of the three major faiths; the conduct of a religious census among pupils; and the imposition of religious tests on public school employees for both employment and evaluation purposes.

ACLU affiliates were also active in Ohio, where a successful protest by the OCLU ended Bible study in the Ashland public schools; and in Massachusetts, where a protest was sent to the school board of Scituate which refused to charge rent to an Episcopal group which used the school building for worship services. The attorney-general of Oklahoma has ruled that under the state law and his interpretation of U.S. Supreme Court decisions, the use of public schools by churches to conduct prayer meetings or religious instruction during a school day is forbidden.

A major test is shaping up in the state of Washington over the practice of Spokane of allowing public school students to be released from classes for non-credit religious instruction held outside school

property one hour a week. A friend-of-the-court brief filed by the Washington ACLU assailed the program as "segregation of non-Christian children" that would be equally in violation of the equal protection clause of the Fourteenth Amendment "as would be their segregation in separate schools or separate classrooms." Non-Christian children cannot take part in the program, although all Christian children can participate or not, as their parents desire. The Washington Constitution, which is stricter on church-state separation than the federal Constitution, was quoted in the ACLU brief to the effect that "all schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence." Other objections to the released time suit were based on separation of church and state guaranteed in the First Amendment.

In Wisconsin, a bill before the legislature providing for released time for religious instruction was abandoned after the attorney general said it probably was unconstitutional. The measure was backed by Roman Catholic and Lutheran organizations, but opposed as a violation of constitutional protections by the Wisconsin Civil Liberties Union, and representatives of Jewish, Protestant and Christian Science groups.

Bible Reading and Distribution. A special three-judge federal court held unconstitutional a section of the Pennsylvania law that provides for the reading of at least ten verses of the Bible, without comment, at the opening of each day of school. This first test in the federal courts of Bible reading in the public school, supported by the ACLU's Greater Philadelphia Branch, was brought by church-going Unitarians, Mr. and Mrs. Edward Schempp. Permission to continue the Bible reading was granted pending a U.S. Supreme Court appeal by the school district, (*See last year's Annual Report, p. 27.*) The lower federal court went to the heart of the constitutional issues raised by the suit when it declared that daily reading of the Bible by the authority of the state and of the teachers can hardly do less than "inculcate . . . various religious doctrines in childish minds" and therefore "amounts to religious instruction or promotion of religious education." Since this religious instruction is carried on "under the aegis" of the state, the Commonwealth of Pennsylvania "supported the establishment of religion . . . (which is) violative of the terms of the First Amendment." The Bible, emphasized the court, is a religious work of religious significance, and to claim that it is primarily a work of history, art or literature "would seem to us unrealistic."

Prayers. The New York Civil Liberties Union will appeal a state Supreme Court verdict which held that the non-compulsory saying of the so-called "Regent's Prayer" was constitutional. The 46-page opinion, however, said that because the reading of the non-denominational prayer

was "mandatory" in the Herricks School District in Long Island, N.Y., the procedure was "objectionable." The NYCLU said it was appealing the decision because it "does not squarely hold that publicly-supported schools and facilities may not be used for prayer and other religious devotions, and because we feel that even non-compulsory regulations pertaining to the saying of a prayer are unconstitutional." The court opinion declared that the school board "may adopt a form of prayer so long as it does not adopt the prayer of any sect or a prayer sectarian in concept and does not make recitation of the adopted form compulsory."

In the Herricks School District, no student was permitted to leave the classroom while the "Regent's Prayer" was spoken by a teacher or a selected pupil. It was read with hands clasped together as though in prayer. The text of the prayer is: "Almighty God, we acknowledge our dependence on Thee and we beg Thy blessings upon us, our parents, our teachers and our country." The recitation, said the NYCLU, constitutes the teaching of religion contrary to the beliefs of the parents, students and plaintiffs. The School Board asked the court to dismiss the suit for lack of sufficient facts and on the grounds of improper judicial procedure. The Board, joined by 16 residents who approve the prayer, also argued that the children were not compelled to join in the recitation. In upstate New York, the Niagara Frontier (Buffalo) Branch of the ACLU won repeal of an order teaching the "Prayer of Saint Francis" to pupils of a public school. A complaint supported by a legal memorandum by the Greater Philadelphia Branch resulted in discontinuance of a "chapel" program in a Swarthmore, Pa. junior high school.

Religious Decorations. One victory (in Levittown, L.I.) and one defeat (in Westchester, N.Y.) were registered in cases involving the erection of nativity scenes on public school property. Trustees of School District Number Five, the largest on Long Island, upheld the action of Wisdom Lane School officials in banning a nativity scene inside the school. The district school superintendent, Fred Ambellan, said that "while we have every intention of keeping God in the schools, we cannot permit sectarianism—the advocating of a particular creed or doctrine—to become part of the school system." In Ossining, N.Y. meanwhile, a state Supreme Court judge upheld the constitutionality of a creche on the high school lawn, saying it was "an accommodation of a religious group . . . not *per se* unconstitutional." The New York Civil Liberties Union said the decision will be appealed, to the U.S. Supreme Court, if necessary. An inquiry is under way by the Minnesota Branch of the ACLU on a decision by town officials in suburbs of Minneapolis and St. Paul permitting branches of the Junior Chamber of Commerce to erect nativity scenes on village hall grounds and on approaches to a court house. The affiliate suggested that churches and businessmen could accomplish their purpose without violating church-state separation by

erecting the creches on private property, but the suggestion was rejected by the young businessman's group.

Private and Parochial Schools. Three weeks after the Civil Liberties Union of Massachusetts protested the free use of three Holyoke public schools by Catholic parochial school classes, church authorities announced that leases have been prepared for the school facilities providing for "appropriate (not token) payments." The situation arose in January, 1959 when the parochial school building was closed as a fire hazard and the pupils and their teachers, who are nuns, were invited by the Mayor to use the public schools until a new parish school is finished in September, 1960. The CLUM said that although it has the "utmost sympathy" for the parochial school children, "it is clear that (it) is a violation of the Federal and Massachusetts Constitutions." Under Article 148 of the amendments to the state Constitution, cited by the CLUM, "no grant, appropriation or use of public money or property . . . shall be made or authorized . . . for the purpose of . . . maintaining or aiding any school . . . wherein any denominational doctrine is inculcated."

The ACLU of Oregon is challenging a state law directing that students in the first eight grades of "standard schools"—the phrase includes parochial grammar schools—receive textbooks supplied and paid for by public funds. A suit by Oregon City taxpayers supported by the affiliate declared that furnishing texts to parochial schools is a violation of the First and Fourteenth Amendments to the Constitution and provisions of the state constitution barring state aid to religious institutions and the use of public school funds by other than public schools. The aim of constitutional guarantees protecting church-state separation, said the Oregon affiliate, is that "it protects religion from interference by the state and it protects the state from competition among religious groups for public support and subsidy."

Bus Test. The Connecticut Civil Liberties Union has published a 20-page pamphlet in connection with its campaign against a state school bus law. An introductory statement by the affiliate declared: "Transportation of pupils has become an essential function of our public school system; it is a large item in board of education budgets. To call it a health or safety service confuses the issue. The real issue from the standpoint of the CCLU is this: can public funds be used to support any part of private schools, especially parochial schools? The law permits a community, on a referendum, to transport its children to non-profit private schools. The CCLU believes that the use of tax funds to support such facilities for such private or denominational schools constitutes a violation of the principle of church-state separation."

School board officials in Jersey City, N.J. and in a Minneapolis suburb have discontinued the practice of asking students questions

about their religion. In Jersey City, an annual religious census was criticized as an unconstitutional "exploitation of school facilities" by the American Jewish Congress and in Minneapolis questions on religious affiliations were stricken from permanent pupil record forms after a conference with officials of the Minnesota Branch of the ACLU. The Ohio Civil Liberties Union objected to a ruling by the state attorney general that employment of members of a religious order who wear distinctive religious garb in public schools does not constitute improper or forbidden teaching of religious doctrine. The OCLU statement, which followed a lengthy study, said that wearing religious habits, in this case by Catholic nuns, violates the First Amendment prohibition against establishment of religion or bars against the free exercise of religion. The affiliate noted that Catholic authorities in New York and North Dakota have permitted nuns to wear lay clothing while teaching in public schools and said the Ohio controversy could be settled constitutionally if the same system were adopted. Also in Ohio, Governor DiSalle is studying the problem raised by compulsory education for Amish children. (*See last year's Annual Report, p. 30.*) The state insists on the right to require all persons to attend high school. A religious minority insists on the right to preserve its own way of life.

2. Church and State: The General Public

"Blue Laws." The U.S. Supreme Court was asked by the ACLU and its Ohio affiliate to review the problem of Sunday closings under "blue laws" that have become the focus of legal challenge and legislative debate in many states. The request, denied by the high court, stressed that since the tribunal had not declared its view on the constitutionality of such laws and local ordinances in 58 years, the opportunity was now at hand to clarify a confusing patchwork of legislation. The request noted that there was, in addition, a widespread non-observance of much Sunday closing laws, indicating "both a dissatisfaction with the principles behind such legislation and a clear lack of connection between these laws and the public health." The friend-of-the-court brief by the ACLU and the OCLU was filed in the case of Coleman Ullner, owner of a department store in a Cincinnati suburb, whose conviction of violating the Ohio blue law was upheld by the state Supreme Court. The brief declared that the law "is a clear violation of the constitutional provision guaranteeing freedom of religion," resulting "in an illegal discrimination between people of different religious sects." The ACLU and its affiliate said that the law makes no provision for citizens whose religion requires them to refrain from work on days other than Saturday or Sunday, imposing a five-day work week that amounts to "economic discrimination." The same is true for those who have no formal religious belief. The result, said the brief, "clearly aids the people of one religious group

over another by giving the former an advantage in their pursuit of economic gain. In essence, the state is imposing a serious financial obstacle in the path of free exercise of an individual's religious beliefs." The ACLU asserted that the basis of the legislation is religious, not, as the state declared, a requirement that the people of Ohio have a certain amount of rest each week.

A landmark decision in Massachusetts by a special three-judge federal court overturned the state's Lord's Day Act as a violation of the Fourteenth Amendment, permitting a kosher supermarket in Springfield to remain open on Sunday. After tracing the legislation back to 1653, the court declared that the law furnished "special protection" to Christian sects which observe a Sunday Sabbath, "to the prejudice" of religious groups that observe another day. The Crown Kosher Supermarket closed each Friday at sundown to conform with the Sabbath laws of the Hebrew religion but opened on Sunday. The opinion said that the statute "arbitrarily" forced the store to remain shut on Sunday, resulting in a deprivation of liberty and property contrary to protections of the Fourteenth Amendment. The retail market earned more than a third of its week's gross business on Sunday. The state has appealed to the U.S. Supreme Court.

Although the federal court verdict in Massachusetts may be cited as a precedent in future court tests, two states moved to tighten existing blue laws. The New Jersey state legislature passed a bill designed to circumvent a Superior Court decision which ruled out an old measure because it applied to only 18 of the state's 21 counties. The new statute would apply to all counties except those which do not reject the ban in a referendum. And in Pennsylvania, stiff penalties were imposed for violations by raising fines for first offenses from \$4 to \$100. In the first batch of convictions under the law—225 arrests by a Bucks County justice of the peace who sought to show the law's unfairness, the state Supreme Court ruled that the "on view" arrests were illegal because the defendants did not have a hearing or an opportunity to defend themselves. The Greater Philadelphia Branch of the ACLU opposed the bill on the same reasoning used by the Massachusetts decision. A similar appeal has been made by the Branch in the case of the "Two Guys from Harrison" department store of Allentown, in which a temporary injunction against enforcement of the law has been issued pending a decision by a three-judge federal court.

Planned Parenthood. The groundwork for a future challenge in the U.S. Supreme Court of Connecticut's anti-birth control law may be in the making. An appeal has been taken to the state's highest court from a lower court ruling upholding the statute making it illegal to prescribe and use contraceptive devices. The plaintiffs, who include a Yale faculty member and three married couples, contend that the ban violates their due process rights under the Fourteenth Amendment. The

law suits were brought by the chairman of the Obstetrics and Gynecology Dept. at Yale Medical School, who contends that the ban conflicts with his professional obligation as a physician to give contraceptive information; a 25-year-old housewife who maintains that another pregnancy "would almost inevitably result in death;" two couples whose last pregnancies ended in death and who contend that further attempts could "result in permanent emotional unbalance;" and a Yale instructor and his wife who seek to postpone conception until they are economically able to support children.

An additional court action was begun by three New Haven clergymen in May, 1959 contesting the law on the First Amendment ground that it deprives them of "the right freely to practice their religion." The clergymen said they are "bound by the teachings of the church and their own religious beliefs to counsel married parishioners on the use of contraceptive devices and to give such advice in pre-marital counseling."

The national ACLU asserted in a new policy statement that state laws prohibiting the sale and use of birth control devices are a violation of civil liberties. The Union said:

"The ACLU reaffirms its position that governmental restrictions on dissemination of contraceptive information or on advocacy of contraception, are violative of the First Amendment—including the guarantee of the free exercise of religion, in the sense of free speech for pastoral counseling of contraception. It asserts further that restrictions by State governments on the sale and use of contraceptive devices are violative of the due process guarantees of the Fourteenth Amendment, and infringe upon the right reserved to the people by the Ninth and Tenth Amendments to live, enjoy liberty and pursue happiness free of unnecessary governmental restraint."

A major court verdict in New Jersey held that the state law banning the sale of contraceptive devices "without just cause" was unconstitutional because it was too vague and ambiguous. The verdict resulted from the prosecution of a leading Newark druggist after two plainclothes detectives were sold contraceptive devices. Whether the decision will result in an effort to write a new state law was not immediately known.

An apparent effect of the successful effort in New York City to make birth control information available to hospital patients (*see last year's Annual Report, p. 33*) has been to spur similar attempts in numerous communities. In some cases, the Planned Parenthood Federation reported, all that was required to achieve at least improved referral services from local hospitals was an approach to local officials. However, in some instances, public controversies developed, notably in Pennsylvania and St. Paul, Minnesota. These were settled by compromises which seem to have made the information available.

Compulsory Worship. The ACLU of Northern California in three different cases protested the imposition of religious services on unwilling auditors. The sheriff of the Butte County jail supplied cotton to stuff the ears of prisoner Donald Smith after the affiliate acted on Smith's demand to await his trial in silence. Services are held in the felony cellblock where Smith is awaiting trial for forgery. And in San Francisco, the affiliate objected to a judge's probation order that an 18-year-old go to a Roman Catholic mass every Sunday for two years, on the ground that the state has no right to require support or adherence to any faith "as a condition of staying out of jail." Municipal Judge Andrew J. Eyman thought otherwise. "I think the Civil Liberties Union is crazy about this. I've done this several times in the past and I intend to continue," the judge declared. Judge Eyman was as good as his word. Shortly afterward he gave a 24-year-old college student arrested for disturbing the peace the choice of jail or probation on the condition he go to his Unitarian church each Sunday for a year. The youth chose probation but outside the courtroom said he did not think that going to church "should be connected with punishment."

Other Issues. Among the major changes asked in the Pennsylvania Constitution by the Greater Philadelphia Branch of the ACLU was repeal of the requirement that public officeholders believe in God and "a future state of rewards and punishments." The Minnesota Branch of the ACLU successfully protested instructions by the state FEPC that it was permissible to ask job applicants "Do you attend religious services?" if the question is accompanied by a statement *not* to identify the religious denomination or place of worship. The Branch regarded the question as a religious test for employment and it was soon dropped.

In other ACLU actions, the Oregon affiliate opposed acceptance by the city of Portland of a stone monolith with a "non-sectarian" version of the Ten Commandments that was offered as a gift to be erected in a public plaza. The New Jersey correspondent of the Union opposed the expenditure of the public funds of Hackettstown to help support the local YMCA, as a violation of church-state separation. The avowed purpose of the "Y" is to develop "Christian character and to aid in the building of a Christian society." The ACLU noted that the definition of "Christian" is at variance with the dogma of the Roman Catholic and Jewish faiths. The funds were not granted.

3. Problems of Conscience and Religious Freedom

Military Service. President Eisenhower was urged in March, 1959 to recommend to Congress an amendment to the present draft law permitting non-religious conscientious objectors to claim exemption

from military service. The law now allows prospective draftees to base exemption claims on a formal religious training and belief which includes the idea of a Supreme Being. The letter to the White House from ACLU executive director Patrick Murphy Malin said that although the current law "recognizes the fact that men will in good faith refuse to bear arms or to participate in any war, it fails to recognize . . . that a man's conscience, whether or not shaped by religious training or rooted in a belief in a Supreme Being, deserves the recognition and respect of the community regardless of disagreement with the source of his conviction. To recognize the principle, but to restrict its application, in effect sanctions state-prescribed dogma."

The ACLU declared that it was not asking for special benefits for conscientious objectors without formal religious training, "but only that their conviction be regarded as deserving of equal treatment." The proposed change, wrote Malin, "would assure that belief based on personal conviction, whether or not supported by a theistic philosophy, is recognized as in accordance with the First Amendment."

The U.S. Supreme Court has let stand a Maryland court decision holding that the University of Maryland had the right to deny matriculation by Kenneth Hanauer unless he agreed to take an ROTC course. In another court decision, the U.S. Court of Military Appeals affirmed the conviction of a former Marine Corps private who publicly criticized the Corps for refusing to release him as a C.O. The three-member tribunal did not consider claims of conscience made by Peter H. Green of Evanston, Ill. It confined itself to the question of whether his bad-conduct discharge had been legal. In a related case, the Department of the Army reversed itself and granted a general discharge under honorable conditions to an officer who became a conscientious objector. Lt. Richard Roark refused to wear his uniform or accept his pay. Initially, the Army sought to court-martial him, but later gave him the general discharge. Counsel for the Colorado Branch of the ACLU helped win further hearings in the case of an Air Force Finance Center employee who posted religious tracts on an office bulletin board, was given a brief psychiatric examination, and then asked to resign.

The Atom Age. The case of Earle L. Reynolds, who sailed with his family aboard the *Phoenix* into the forbidden waters of the Atomic Energy Commission Pacific testing grounds, is again on appeal. Reynolds, a pacifist, was convicted originally but the conviction was reversed on the grounds that a Honolulu federal judge had erred in refusing to allow Reynolds to conduct his own defense at a jury trial. A retrial resulted in a six months sentence. A second voyage to the same area by another pacifist, Orion Sherwood, resulted in a contempt-of-court conviction that is being appealed by the ACLU of Southern California. Sherwood had sailed in his ketch, *Golden Rule*, despite a restraining

order, but the affiliate charged that the action of the AEC in setting a "boundary" over 390,000 square miles of ocean was invalid because of a lack of notice or an opportunity for a hearing. The petition said the Honolulu court order had deprived Sherwood of his "right of movement and protest."

Citizenship. Mrs. Robert C. Nagler of Kalamazoo, Mich. was granted citizenship after intervention by the ACLU. Originally, an examiner of the Immigration and Naturalization Service recommended that she withdraw her petition for citizenship because she was raised as a Roman Catholic but no longer maintained formal church affiliation, rather than a member of one of the recognized "peace churches." Mrs. Nagler had said she would refuse military service but would perform work of national importance. After the Union informed the examiner's superiors that formal "peace church" affiliation is not required for conscientious objectors, Mrs. Nagler quickly was granted citizenship.

Hutterites. The Hutterites are a small Christian sect whose members live in thriving communities in Minnesota and the Dakotas under a religious practice that bars individual ownership of private property. Through their efficiency and industry, the Hutterites have managed to profitably increase their land holdings—a development that inspired an attempt to write restrictive legislation in Minnesota and South Dakota forbidding further expansion by the group. The Minnesota Branch opposed the measure as discriminatory against the Hutterites. The story in South Dakota is more complex. The legislature passed a law in 1955 barring the formation of new Hutterite communities and freezing land holdings at then-present acreage. Subsequently, the state moved against one settlement charging they had violated the statute by buying 80 additional acres. A lower state court found that the law was unconstitutionally vague and uncertain, but the state Supreme Court held the lower court in error because the Hutterite charter was granted subject to future legislative changes. Ironically, through a technicality, the higher court permitted the sect to keep the additional 80 acres, thus meeting a constitutional issue which Hutterites have pledged to take to the U.S. Supreme Court.

GENERAL FREEDOM OF SPEECH AND ASSOCIATION

1. Right of Movement

Passports. The 86th Congress, like the 85th, attempted to write new passport legislation in the wake of the U.S. Supreme Court decision more than a year ago which stated that Congress had not authorized

questioning an applicant's political beliefs. (*See last year's Annual Report, pp. 35-36.*) The ACLU reaffirmed a position taken at that time and testified anew before the Senate Foreign Relations Committee that passports ought to be denied only in time of war or when the individual faces a criminal prosecution. The Union declared that freedom of travel is a constitutional right that can be curbed legitimately only under "extraordinary circumstances . . . which clearly and presently threaten the continued life of our nation." In the absence of a clear and present danger, the ACLU said, "a person's beliefs and associations, no less his intention to speak critically of any aspect of American life . . . cannot be grounds upon which to deny him the necessary documents to travel abroad." The Union disputed the argument of the State Department that the Executive branch of government has the power to deny a passport under its responsibility to conduct foreign affairs, stating that "any purpose of foreign policy must not be implemented by methods which violate a constitutional freedom." The Union's testimony was made in support of a proposed law that would conform to civil liberties standards, and in opposition to an Administration bill that would deny passports to anyone who "knowingly engages in activities for the purpose of furthering the international Communist movement." Such vague language, said the ACLU, presents "substantial dangers to civil liberties" since although there are undoubtedly activities which aid the cause of communism, "there are also activities of which no one can say with certainty that they are the purpose of 'furthering the international Communist movement.'" Statements which disagree or discredit U.S. policy could conceivably be thus characterized, the ACLU said. Another flaw in the bill in the opinion of the ACLU was its authorization to use confidential information and sources in violation of the Sixth Amendment. Citing the U.S. Supreme Court's opinion in the case of William Greene (*see p. 84*), the Union urged adherence to the due process principle guaranteeing confrontation and cross-examination in hearings reviewing the denial of a passport, as well as in security proceedings. A report by the Bar Association of New York City partially agreed with the ACLU stand on confrontation of witnesses. A special committee of the Association was divided on the extent to which cross-examination should be permitted in passport cases, but agreed that some "trial-type" hearings should be introduced where applicants could examine government evidence. The House, late in the session, passed a passport control bill barring the use of confidential informants, but containing restrictive standards. The measure died in the Senate.

The ACLU reaffirmed a protest made to the State Department by its Northern California affiliate in demanding an explanation in the case of James Kershaw, a San Francisco theatrical stage manager, who had been barred from accompanying an acting troupe to the Brussels

World's Fair only a few days before their departure. No explanation was given. The ACLU said the action violated the "spirit of due process, which includes the right of the individual to confront his accuser and answer charges which have been made against him."

Upon receiving numerous complaints, including one from the Greater Philadelphia Branch, the ACLU urged the Passport Office of the State Department to discontinue the use of forms containing questions concerning Communist Party membership since the U.S. Supreme Court had ruled that there was no statutory grounds for such queries. After some delay in which the government claimed the expense of printing new forms was prohibitive, new forms were, in fact, distributed to most offices of the passport agency. The Philadelphia affiliate protested the continued use of the old questionnaire in its city, however, for as long as a year after the high court ruling. The new form was finally introduced in June, 1959.

The Worthy Case. The ACLU appealed to the U.S. Supreme Court a U.S. Court of Appeals ruling that travel restrictions imposed by the State Department were a matter of foreign policy and beyond the reach of the courts. The verdict came in the case of William Worthy, whose right to a passport has been defended by the Union since 1956, when the newsman visited Communist China and Hungary in defiance of a Departmental ban. (*See last year's Annual Report, pp. 36-37.*) Conceding that travel was a right, the unanimous three-judge opinion said that it could be restricted like any other right in the interests of others. "A blustering inquisitor avowing his own freedom to go and do as he pleases can throw the whole international neighborhood into turmoil," the opinion said. The court rejected the argument of the ACLU-assigned attorney that travel to Communist China, by providing public information and understanding, would really help U.S. foreign policy. The court said: "This is an argument he (Worthy) should make to the President or Congress." The Union brief had relied chiefly on the constitutional argument that the correspondent had a right to travel freely and that geographical restrictions placed on travel by the State Department were not authorized by law.

Travel to China by Newsmen. So far, only one American reporter, John Louis Strohm, has been allowed to travel inside China by Communist officials. One U.S. author who was invited to lecture in Communist China has been prevented by the State Department from going. Waldo Frank filed suit in an effort to force the government to validate his passport on the grounds that the restrictions are unconstitutional and discriminatory. Frank was not one of a limited group of newsmen who received permission from the State Department to travel to the Chinese mainland in 1957. The permission was extended for another year for the selected news media.

Powell-Schuman Case. A U.S. commissioner dismissed a treason charge against John and Sylvia Powell, publishers of the *China Monthly Review*, and their associate, Julian Schuman, when the government failed to produce two major witnesses it said could back up the accusation. The trio had not been indicted. The magazine, printed in Shanghai, had attacked U.S. policy during the Korean War, including the charge that Americans used germ warfare during the Korean conflict, the government said. A sedition charge against the three ended in a ruling of a mistrial when a federal judge upheld the defendant's charge that headline treatment of his remarks by newspapers made a fair trial impossible. (See also p. 98.) The Northern California ACLU, in a statement in which the national ACLU concurred, attacked the indictment as a threat to free editorial expression and as a violation of due process.

2. The Vote: Minority Parties and the Right to Franchise

Reapportionment. The ACLU, recognizing the need for reapportionment of congressional districts as a significant civil liberties issue, urged passage of a bill before the House Judiciary Committee that would establish numerically equal districts that are continuous, or in one piece, and compact. This would grant approximate equality in voting strength to all districts within a state. The Union's stand followed adoption of a policy statement by the Board of Directors which asserted that to dilute the effectiveness of the vote is just as serious an act of discrimination as total denial of the vote. Where "total deprivation of the franchise" is the issue, "the evil lies in being represented by one for whom no vote was cast," the statement said. "In the case of mal-apportionment, the evil lies in being represented by one for whom—in relation to over-represented districts—the value of a single vote is diluted. . . . The difference is only one of degree." The Union said it decided to urge action by Congress because the courts have been reluctant to act ever since the U.S. Supreme Court refused to intervene in an Illinois case in 1946. That decision has been often cited to show that the question of reapportionment is "political" and therefore not subject to judicial review. Without going into the merits of the high court ruling, reached by the margin of a single vote, the Union said the fact of a judicial no-man's land "makes it all the more imperative that Congress act to eliminate this area of discrimination." The ACLU statement also emphasized the need for local reapportionment by state legislatures as well.

Action in the states to win reapportionment of congressional districts is up against tremendous political odds. Legislators are normally among the last in line clamoring for a shakeup in the legislature that could affect the "safety" of long-held seats. Neglect of the problem in most state capitals is illustrated by California, for example, where

a certain 12 per cent of the population can elect a majority of the state senate; and in Connecticut, where an even lower margin—10 per cent—can elect a majority of the lower house. In the only state in recent years where relief has been won—Minnesota—reform was achieved after a federal court accepted jurisdiction of a suit but gave the legislature two chances to rectify inequalities. Without enthusiasm, the state lawmakers voted to reduce the gap in voting effectiveness between various portions of the state from ratios of from 1 to 37 to 1 to 4 in one house and 1 to 5 in the other. The Minnesota Branch of the ACLU submitted a friend-of-the-court brief in the suit, which was based on the equal protection clause of the Fourteenth Amendment and judicial decisions which upheld the vote for Negroes in party primaries and to attend desegregated schools. Parallel Federal District Court suits also based on the discriminatory nature of existing political representation have been started in Florida and Tennessee.

Minority Parties. ACLU affiliates in New York and Illinois were instrumental in protecting the right of minority political parties to access to the ballot. In New York, the Appellate Division of the state Supreme Court reversed a decision by a state official in refusing a place on the ballot to the Independent Socialist Party because of a minor irregularity involving the signing of eight witnesses' statements on nominating petitions. Both the NYCLU and the national ACLU hailed the decision as signifying the need for a "thorough re-evaluation" of the state election laws to simplify the requirements for minority representation "and to eliminate the gloss of minutia challenge which has accumulated by court decisions through the years."

Right to Vote. The ACLU recommended two possible courses that would permit migratory workers all the "rights to which they are entitled as people in the United States." The suggestions, made in a report to the National Advisory Committee on Farm Labor, were: enactment of a federal law governing absentee voting similar to that formerly in effect for members of the armed forces, and special voting provisions for migrant labor by revision of state laws, to permit reduced residency requirements. All states require at least six months residency in addition to minimum residency in local areas. These requirements, the ACLU pointed out, deny migratory workers equal protection of the law in the right to cast their ballots. The various laws also deny equal protection in another pressing area, the Union said—eligibility qualifications for public assistance for the aged, the disabled, dependent children, and other categories of help which permanent residents may enjoy. The Union recommended an end to residency requirements altogether for public assistance or, failing that, an inter-state reciprocity agreement.

The Iowa Civil Liberties Union is involved in voting restrictions uncovered at Iowa State University and the University of Iowa. At the former institution, the affiliate is supporting a test case against the refusal of the Ames city clerk to register students for voting and at both schools it appears that a married student meeting residency requirements may vote but a single student with the same qualifications cannot. The ICLU is investigating.

3. Right of Assembly in Public Facilities

Use of Public Schools. One of the few remaining California loyalty oaths not overturned by state and federal courts was reversed by a Los Angeles Superior Court judge who ruled that an oath required for the use of public schools was unconstitutional. The test case was brought by the ACLU of Southern California, which said the requirement violated guarantees of speech and assembly, reversed the principle that a person was innocent until proven guilty, and encroached on the subject of subversion in which the federal government had pre-empted legislative authority. The ACLU of Southern California had refused as a matter of principle to sign an oath as a condition for using the Los Angeles High School auditorium for a Bill of Rights Day meeting.

The Freeport, L.I. Community Concert Association attacked as an "insidious form of censorship" the pressure that forced dancer Paul Draper to withdraw from a scheduled recital. The booking was cancelled after the local school board indicated it would not permit the auditorium to be used for his appearance. The move followed a protest to the board by the local American Legion post over the dancer's forthcoming concert and the receipt by the board of letters from 25 individuals expressing their objections.

Public Meetings. A convention by members of Jehovah's witnesses was finally held at the Iowa State Fair grounds in Des Moines after public and legislative protests caused fair grounds officials to reverse an original ban on the meeting. The original refusal was criticized as discriminatory by the mayor of Des Moines and an editorial in *The Des Moines Register* called it a repression of religious freedom. Another editorial, this time in the *Minneapolis Star*, condemned a statement by the mayor of the Minnesota city that he "believes in the principle of free speech and freedom of expression . . . except for subversives." The remark followed the granting of a permit to groups who had joined in a parade to oppose nuclear arms tests, but only after a municipal "security check" disclosed that the marchers are not "unwitting members of a Communist-front group." The mayor had indicated the permit would have been refused to the Quakers, pacifists and others if the parade was considered "subversive to the public peace"

as prescribed by a city ordinance. The Niagara Frontier (Buffalo) Branch of the ACLU met with the chief of Buffalo's anti-subversive activities police squad over the refusal by officials to allow a candidate on the Independent Socialist Party ticket to speak at Buffalo's Hadji Temple. Buffalo police called some of the sponsors of the meeting members of a "subversive organization."

Seeger Case. Folk singer Pete Seeger's right to appear in the auditorium of the Detroit Arts Commission has been upheld by a Wayne (Detroit) County Circuit Court. The suit was filed by the Detroit Labor Forum, assisted by the Metropolitan Detroit Branch, ACLU. The suit relied on Seeger's constitutional right to sing, the audience's right to hear him if it wished, and the public's right to use public facilities on a reasonable basis. The verdict by Judge Thomas J. Murphy upheld the petition in rejecting the Art Commission's argument that the singer's "controversial" background might create "disturbances." He said that Seeger's so-called controversial past was irrelevant to his intention of bringing "enjoyment to many, many people." Judge Murphy added that Seeger's concerts in other communities had not created disturbances and that if anyone threatened to create a row in Detroit, "the proper thing to do is call police and have them arrested."

4. State and Local Controls

Legislative Investigations. A California Superior Court judge ruled that state legislators can be sued for acts stemming from performance of their legislative duties. That was the effect of a decision by Judge Clarence Harden in San Diego involving a suit by a bar owner against the chairman and sergeant-at-arms of an Assembly rackets sub-committee. Judge Harden's refusal to dismiss a \$50,000 damage suit could have wide repercussions in other ACLU actions where the issue of federal and state officials who exceed their authority is at stake. The Southern California affiliate filed a brief in the San Diego case, which developed after the sub-committee forced the witness to surrender a two-page document containing instructions from his attorney. The hearing had been televised over local stations. The state Attorney General had claimed that legislators, like members of the judiciary, have immunity from liability even when and if their acts exceed their authority. But Judge Harden ruled that the committee chairman and aide must stand trial.

A trio of bills were defeated in the Illinois legislature that would have outlawed the Communist Party, revived an investigation of alleged subversion and started a probe of so-called un-American public school textbooks. The Illinois Division of the ACLU wrote to all legislators that a bill creating a "seditious activity and subversive

propaganda" commission to study education, industry, labor and government was "clearly unconstitutional." The Division said the proposed measure invades an area already pre-empted by the federal government, violates free speech provisions of the Constitution, and sponsors "exposure for exposure's sake" in defiance of the U.S. Supreme Court. (*This statement was written before the high court's decisions in the Barenblatt and Uphaus cases, see pp. 55-56 and 85-86.*) The textbook bill would have authorized any group of 30 persons in the school district, or a school board itself, to set a special committee to study any books believed to be "antagonistic to or incompatible with the ideals and principles of the American constitutional form of government."

The U.S. Supreme Court applied to state investigations the rule of pertinency it laid down for federal inquiries when it reversed a contempt citation against David H. Scull, a Virginia Quaker who refused to answer a Virginia legislative committee's questions about race relations. The high court said the committee had not made clear how its questions were pertinent to the subject of the inquiry. Among the 31 questions Scull refused to answer were whether he belonged to the NAACP or associated with the ACLU or the Anti-Defamation League of B'nai B'rith. The three general subjects under inquiry were the tax status of racial organizations, school integration, and the unauthorized practice of law. The unanimous court verdict, however, said the committee had never explained to Scull how any of the questions put to him were related to those subjects. This was the same line of reasoning used by the tribunal in its 1957 Watkins case decision.

Right to License. The U.S. Supreme Court set aside a one-year suspension from practice of Harriet Bouslog Sawyer, a Honolulu lawyer censured by the Hawaii Bar Association for a public speech she made while representing a defendant during a 1952 Smith Act trial. Although there was no transcript of the speech, newspaper accounts said Mrs. Sawyer charged that "horrible and shocking" events were taking place at the trial and that "they just made up the rules as they went along." The Supreme Court of Hawaii suspended Mrs. Sawyer from practice on the grounds that her conduct had cast doubt on the integrity of the trial judge, but the U.S. Supreme Court said there was not enough in the record to support the accusation.

The Florida Supreme Court has upheld the decision of a lower court in dismissing a suit by the state to disbar attorney Leo Sheiner. (*See last year's Annual Report, p. 41 and 1956-1957 report, p. 22.*) The state had charged that Sheiner's refusal to answer questions of a U.S. Senate subcommittee on the grounds of the First and Fifth Amendments was fraudulent and unethical. But the lower court held that the state "had not met its burden of proving its motion to disbar by a clear preponderance of the evidence." The case of California lawyer

Raphael Konigsberg is still in its second round of legal action. (*See last year's Annual Report*, p. 39.) Under an order from the U.S. Supreme Court to rehear the case, the California State Bar again refused to certify Konigsberg after he refused to answer an examiner's questions about his political beliefs and associations. The ACLU of Southern California-sponsored action is now before the state Supreme Court a second time.

A San Francisco District Court of Appeal ruled that before police could revoke the license of a bar patronized by homosexuals, "there must be improper, illegal . . . or immoral acts of conduct committed on the premises to the knowledge of the licensee." The bar license was ordered reinstated. The ACLU filed a statement at a hearing on behalf of William Walker, proprietor of a controversial cafe in Washington, D.C. patronized by members of the so-called "beat generation." Licensing officials in the District served notice they intended to revoke the restaurant permit of the Coffee n' Confusion Cafe after complaints by neighborhood residents that the cafe was a public nuisance and violated police and health regulations. The Union brief was in line with its traditional defense of rights of freedom and assembly to unpopular individuals and groups. "The unorthodox, the unconventional, even the radical, must be allowed to meet and speak peaceably without restraint," the brief declared.

Out-of-State Affiliation. A petition circulated by the Louisiana Civil Liberties Union protesting legislative proposals to close down public schools in order to avoid desegregation is still a source of major civil liberties controversy in the state. (*See last year's Annual Report*, p. 25-26.) The uproar continued on two fronts: a new law barring all state and local organizations from having affiliation with out-of-state groups any of whose officers are Communists or Communist sympathizers; and a report by a state joint legislative committee that tried to link the ACLU to Communists. The affiliation measure was promptly denounced as "manifestly unconstitutional" by the Louisiana affiliate, which served notice that it would not comply with the law. So far there has been no indication that the state intends to enforce the measure or the LCLU's defiance of it as a test case. The LCLU said that since civic groups with national ties "are not informed of the membership of every officer and director" in headquarters and many local branches, "it is obviously impossible for anyone to truthfully attest to facts not within his knowledge." The law required that local officers sign affidavits that national officers do not belong to organizations cited by the House Un-American Activities Committee or the Attorney General's list of subversive organizations. The report by the joint legislative committee was refuted point by point by the LCLU in a 45-page analysis of the charges. The affiliate said the committee

had merely warmed-over old accusations of Communist sympathy against the Union which the Union had answered effectively a long time ago.

5. Congressional Action

House Un-American Activities Committee. In one of the most long-awaited civil liberties decisions in years, the U.S. Supreme Court upheld the contempt conviction of Lloyd Barenblatt, former Vassar College psychology instructor. (*See last year's Annual Report, pp. 41-42.*) The Union had carried this key case to the high court. The closely-divided court held 5-4 that legislative investigations of communism were proper because the national interest involved in the defense against communism was greater than the individual's interest in not disclosing his political associations. This broad interpretation of congressional power to investigate where the national security is at stake came as a surprise to civil liberties observers. While there was some doubt that the court would concur in the ACLU's contention that the HUAC's mandate to investigate "un-American propaganda" invaded the First Amendment, there was some indication on the basis of its recent decisions that the tribunal would void Barenblatt's conviction on the grounds that the questions put to him were not pertinent to the subjects under inquiry, or were an invasion of the field of education. Instead, the majority made these points: 1—First Amendment rights can be limited where the public interest outweighs private interest—in this case the international Communist menace which gives Congress the right to investigate and therefore legislate to control the threat; 2—the claim that the committee sought only to "expose" persons without pursuing a legitimate legislative purpose is not supported either on the record in the Barenblatt case or because of the court's lack of authority to judge the committee's motives; 3—while a congressional committee may not probe the content of what is taught in educational institutions, there is nothing to prevent it from questioning a teacher about Communist Party activity, just because he is a teacher; 4—The questions to Barenblatt and their relation to the subject under inquiry—communism in education—were clearly identified, in contrast to the "amorphous" questions put to Watkins, the defendant in an earlier test case. Moreover, the court's 1957 Watkins decision did not make the HUAC's mandate totally invalid, but simply criticized the fact that the committee's queries were not "pertinent" to the subject of Communist infiltration of the labor movement; 5—granting that the committee's mandate may be vague, the House gave the panel "pervasive authority" to investigate Communist activities as part of its concern with the national security.

The dissenting opinions viewed the heart of the Barenblatt case in a sharply different perspective. Said the minority: "If the issue were merely whether Congress intended to allow an investigation of com-

munism . . . it may well be that we could hold the data cited by the court sufficient to support a finding of intent . . . There are, of course, cases suggesting that a law which primarily regulates conduct but which might also indirectly affect speech can be upheld if the effect on speech is minor in relation to the need for control of the conduct. . . . (But) neither of these cases, nor any others, can be read as allowing legislative bodies to pass laws abridging freedom of speech, press and association merely because of hostility to views peacefully expressed in a place where the speaker had a right to be." The Committee's mandate, "on its face and as here applied, since it attempts inquiry into beliefs, not action—ideas and associations, not conduct, does just that . . . (The) court . . . fails to see what is here for all to see—that exposure and punishment is the aim of this committee and the reason for its existence. To deny this aim is to ignore the committee's own claims and the reports it has issued ever since it was established. . . ."

Wilkinson Case. The suit of Frank Wilkinson, now before the U.S. Circuit Court of Appeals, was distinguished from the Barenblatt case in an ACLU brief which pointed out that Wilkinson had not been subpoenaed until the HUAC discovered that he had arrived in Atlanta to organize public opposition to the committee's hearings into alleged Communist influence in the South. Wilkinson's activity, said the Union, was a perfectly proper exercise of the right of the people to petition the government for redress of grievances—a right protected by the Ninth Amendment. The brief also cited provisions of the First and Fourteenth Amendments that had been quoted in the Barenblatt case referring to the free speech and due process violations of the HUAC. Supporting Wilkinson's rights as a "lobbyist" the ACLU drew a parallel between his activity and those of a regular, registered lobbyist who is protected by court decisions from requiring to tell a congressional committee the recipients of his propaganda.

In the states, court suits and contempt violations prompted by various local appearances of the much-traveled HUAC continued to occupy ACLU affiliates. The ACLU of Northern California is defending Louis Earl Hartman, a San Francisco radio personality, who was convicted of contempt after refusing to answer the committee's questions. The Southern California affiliate won U.S. Supreme Court review of the dismissal of two former Los Angeles County social workers who refused to reply to HUAC questions and is defending a newspaper reporter and a plumber who challenged committee subpoenas on the grounds that its mandate is unconstitutional. The Northern and Southern California affiliates have been active on behalf of a reported 110 teachers whose names the HUAC sought to turn over to local school boards. The ACLU of Southern California filed a petition in Federal District Court in Los Angeles declaring that if the school boards are given the teachers' names

and other information they "will suffer irreparable injury and have no adequate remedy at law." Much of the committee's information, added the petition, is "unsworn . . . data from unidentified informants concerning the political and social beliefs, opinions and associations . . . which are entirely lawful and protected by the First Amendment." The legal action is an outgrowth of an earlier suit by the affiliate challenging the HUAC's right to investigate state education, which played a role in a decision by the committee to postpone indefinitely public hearings.

The Illinois Division of the ACLU criticized as a violation of constitutional liberties HUAC subpoenas issued to two persons who attacked Chicago hearings in a leaflet. The Division also supplied counsel to a University of Chicago student who refused, on First Amendment grounds, to answer questions put to him by the committee.

In Connecticut, an arbitrator ruled that an employe of the Singer Manufacturing Co. was entitled to his job back after he was fired in 1956 for pleading the Fifth Amendment before the HUAC. The arbitrator said "no question of loyalty was involved" and that "taking advantage of the Fifth Amendment is not a crime." In addition, after having long been denied unemployment insurance benefits, the employe was granted the benefits by state officials.

Congress vs. the Court. The mood of Congress was far less antagonistic toward the U.S. Supreme Court. Markedly toned down were the once-bitter debates which greeted controversial opinions by the tribunal. The reasons were two-fold: less antagonism by critics of the court over its decisions in the loyalty-security and race relations fields, and better organization by friends of the court against efforts to reverse the effect of sensitive verdicts. The simmering controversy, however, was not without legislative attempts to nullify or weaken high court verdicts involving the Smith Act's prohibition of advocacy of revolution, federal employe security program, passport applications, deportable aliens and the validity of state sedition laws. All such legislative proposals were opposed by the ACLU in testimony before the Senate Internal Security Sub-Committee on the grounds that they "merely promote the comfortable illusion of real security (while) diverting our energies from the arduous economic, political and other activities in the fields of foreign relations and domestic affairs in which our only true security in the perilous future lies.

"The best possible protection," declared the ACLU, "for our security is scrupulous observance of our constitutional guarantees. . . . Government devotion to free speech, due process and equal protection of the laws—not their restriction or neglect—inspires loyalty to the Government in the minds and hearts of (Americans) . . . and gains the confidence of uncommitted peoples." A bill which passed the House but died in the Senate permitted the states to enforce their own laws against

sedition. This bill, backed by the Justice Department and opposed by the ACLU, would overturn the court's decision in the Steve Nelson case. (See *last year's Annual Report*, pp. 43-44 and also *Uphaus case* on pp. 85-86.)

American Bar Ass'n vs. the Court. The American Civil Liberties Union criticized as "unprofessional and irresponsible" the adoption by the House of Delegates of the American Bar Association of a series of recommendations widely interpreted as an attack on the U.S. Supreme Court. The recommendations asked Congress to pass a series of bills that would reverse high court rulings in the loyalty-security field. The ACLU cited the following paragraph of the report of the ABA's Special Committee on Communist Tactics, Strategy and Objectives as an example of what it was objecting to: "The paralysis of our internal security grows largely from construction and interpretation centering around technicalities growing from our judicial process."

The reference to due process guarantees as "technicalities," commented the Union, "is certainly unprofessional and shows surprising disregard for . . . the Bill of Rights. To state that our internal security is paralyzed is patently absurd." Such a conclusion is "near-hysterical," the statement added, and "unworthy of the standards of professional ethics." A ten-page analysis of the ABA committee's recommendations by the Union said they had done a disservice to the internal security of our country, the rights of the people within it, and the concept of equal justice under law as enunciated by the U.S. Supreme Court. The approach of the ABA, said the ACLU, reveals "an essentially negative concept of national security, an approach which has produced such sharp criticism of the various federal security programs."

The Smith Act. Although convictions and prosecutions of Communist Party leaders under the Smith Act have been reversed or dropped in every state in which they took place except Colorado, attention shifted to the membership clause of the Act, under which two Party leaders have been convicted. The clause makes it a crime knowingly to be a member of a party that teaches and advocates forcible overthrow of the government. The case furthest advanced in the courts is that of Junius Irving Scales, former Carolinas chairman of the Party. Scales was originally convicted under the membership clause but the U.S. Supreme Court overturned the verdict on the grounds that several government witnesses had a record of unreliability in other cases. After a second conviction the high court heard argument but ordered reargument on certain constitutional questions involved in the membership clause of the Smith Act. Seventeen other Party leaders also face legal action under the clause, although in some cases the indictments have been inactive for some time. Among those convicted under the membership clause are the former upstate

New York chairman, John Francis Noto, and ex-secretary of the Party in Illinois, Claude Lightfoot. Future action awaits the outcome of the Scales case. The ACLU filed a brief in the Scales case declaring that his conviction "cannot stand without violating the First Amendment. The emphasis is on what the defendant thinks, rather than does," the brief continued. "Since the crux of the crime is association with groups advocating violent revolution, the danger is great that convictions will be based not on the acts or even the state of mind of the defendant, but rather the general antipathy towards those with whom he has associated. How can membership in a group advocating violent overthrow unaccompanied by any overt act, even when coupled with guilty knowledge and intent, create a clear and present danger?," asked the ACLU.

In Colorado, meanwhile, a Federal District Court jury convicted seven defendants under the general application of the Smith Act, making it a crime to conspire to advocate overthrow of the government.

Congress. The House passed a bill redefining the word "organize" in the Smith Act to nullify the 1957 U.S. Supreme Court decision freeing five California Communist leaders and ordering new trials for nine others, who were later released. (*See last year's Annual Report, pp. 44-45.*) The House bill was virtually the same as one passed in the 85th Congress and which died in the Senate in the closing days of the session; the Senate did not act in the 86th session. The ACLU opposed this latest proposal, as it did a companion Senate measure that would have toughened the Smith Act by prohibiting advocacy "without regard to the immediate probable effect of such action."

The pre-emption doctrine enunciated by the high court in its 1956 reversal of Pennsylvania Communist Steve Nelson's conviction under state sedition laws was cited by the Supreme Court of Louisiana in granting an appeal by Junesh Jenkins. Jenkins was tried and convicted under the state's Subversive Activities Law. His case was supported by the Louisiana Civil Liberties Union, which filed a brief in the case stressing the pre-emption doctrine. (*See also Uphaus decision on pp. 85-86.*)

LABOR

Congress. A new labor reform bill, the first general labor legislation since passage of the Taft-Hartley law, was adopted after considerable controversy. Approval of the statute came as the ACLU, reversing a seven-year policy in support of union self-regulation, adopted a new policy statement urging federal legislation to insure internal union democracy. The Union coupled its call for a moderate measure with a warning that "government intervention, here or elsewhere, is a necessary evil" prompted by the need for a "bill of rights" for union members.

"Self-regulation alone cannot adequately protect the democratic rights of members within unions," the ACLU declared.

The Union statement said that the need for legislation grows out of the failure of union constitutions to protect the First Amendment rights of freedom of speech, press and assembly by expressly forbidding, in many cases, distribution of circulars or the organizing of opposition groups within the union. In addition, said the policy declaration, "few courts frankly repudiate the oppressive use of such clauses and openly protect the civil liberties of union members." In describing the essentials of a legislative "bill of rights" for union members, the ACLU made these points: First, every worker should have the right to participate fully in determining the policy of the union which represents him, including the right to full and equal membership, the right to criticize union officers and policies, the right to free and open elections, and the right to a financial accounting for union affairs. Second, every worker is entitled to equal treatment by the union, including protection against railroading or discrimination by a majority against a minority. Finally, every member, before being subjected to penalties, is entitled to a full and fair hearing before an unbiased tribunal with the right to an appeal. "A clear declaration of First Amendment rights for union members," said the ACLU statement, "is one of the most significant contributions the law can make to union democracy. It strengthens the law at its weakest point and protects the most basic rights of union citizenship."

The policy statement took exception as a violation of Fifth Amendment protections against self-incrimination, to the requirement that union officials and employers must report conflicts of interest and their financial transactions or suffer criminal penalties. The Union said that constitutional rights should not be sacrificed, even though it creates statutory rights for union members. The solution to this "admittedly difficult problem," the statement said, should "at least avoid an explicit compulsion to confess criminal conduct." While agreeing with certain safeguards for free and unfettered union elections, the Union criticized other sections of the law as infringements on civil liberties. Among these provisions was a prohibition against using union funds in such balloting. The ACLU said that although the aim was to prevent incumbent officers from increasing their advantage over electoral opponents, the provision might have the effect of cutting off the main resources of a rebel group by cutting off campaign contributions from their local unions, which probably are their greatest source of strength.

Other highlights of the legislation on which the Union policy statement commented were: the disqualification of ex-felonists from union office for five years was termed discriminatory against persons "who have paid their debt to society" and who might otherwise be "perfectly suitable candidates;" a similar five-year ban against ex-Communists

from holding union posts "shrink the very democratic process the legislation is designed to further" and may also serve to "close the door to individual reform;" an 18-month limit on trusteeships unless further extended by court order was praised as a "substantial contribution to union democracy;" and the elimination of the existing requirement that union officials seeking to use the National Labor Relations Board sign non-Communist affidavits was also hailed by the Union, which has long maintained its opposition to such oaths as a denial of freedom of association and conscience protected by the First Amendment.

Government Workers. A year-long study by the Labor Committee of the ACLU has resulted in adoption by the Board of Directors of a major policy statement upholding the right of government employees to form or join labor organizations of their own choosing. In addition, the statement declared that there should be no blanket prohibition against the right to strike by government workers and that union shop agreements in government employment raise no violation of civil liberties. The policy statement emphasized it was commenting only on the civil liberties questions involved in the unionization of public employees, not endorsing the wisdom of self-organization itself. Rejecting the argument that a possible conflict of loyalties might affect the job performance of a government worker who is also a union member, the ACLU noted that such an evaluation, largely subjective, would be made by officials of "widely varying competence." To allow such an "essential civil liberty as freedom of association to be dependent on the orientation of a single individual is fraught with danger," the Union warned. The statement said that the solution of a possible conflict of loyalties should rest on "objectively observable misconduct," and on vigorous attempts at intelligent recruitment policies coupled with education towards a greater understanding of "departmental goals and values."

On the right-to-strike issue, the ACLU said that a complete ban should be in force only where "maintenance of uninterrupted service is essential to the community." Even in such cases, continued the statement, limitations on the right to strike should be dependent on the availability of effective grievance machinery, including last-step arbitration; and provisions for a fact-finding board to assure "informed consideration" of issues that, in other circumstances, might be fought out through a strike.

The ACLU statement discussed the competing free association arguments raised by the union shop but concluded that since the Taft-Hartley law does not bar such agreements, and since the ACLU itself has no objection to the union shop in private employment, such agreements in government employ do not involve a violation of civil liberties. The ACLU opposes a union shop or any union activity where membership is closed on account of race, creed, color or place of national origin.

IAM Dispute. Considerable attention was focused on two cases of alleged denial of internal union democracy concerning the International Association of Machinists, whose president, Albert J. Hayes, is chairman of the AFL-CIO Ethical Practices Committee. One case arose in Chicago where two men were expelled from the union as the climax of a four-year battle in which a dissident faction charged voiding of members' rights by a trusteeship imposed by the IAM and publicly urged the appointment of a Public Review Board to hear the complaint. The expulsion order was based, in part, on the men's "use of exaggerations, half truths . . ." and violating the union constitution's bar against circulating "false and malicious statements . . . attacking the . . . integrity of any . . . officer." The second case arose in Los Angeles where two IAM members were expelled after they publicly campaigned for a "right to work" law which the union opposed.

In actions by three ACLU affiliates, the New York Civil Liberties Union filed a brief before the state Court of Appeals charging that a state law barring ex-convicts from holding office in the longshoremen's union was an "unreasonable interference" with a man's right to work; the ACLU of Northern California has filed an appeal on behalf of a postal worker who was fired for picketing a San Francisco post office for the Postal Workers Union; and the Metropolitan Detroit Branch of the ACLU supported the right of protest of Dodge Auto Company employees who demonstrated against a company practice whereby the existing labor force worked overtime although unemployed employees were not rehired. A Chicago arbitrator has ruled against the "wholesale" use of lie detectors in rejecting management's bid to test all its welders in order to verify their piecework claims. The judgment, which did not rule out the use of lie detectors if specific employees were formally accused beforehand, objected in this case on the grounds that the reliability of the technique is not fully established; it is a violation of protections against self-incrimination; it is an unwarranted invasion of privacy.

Bias. Conflicting estimates of the prevalence of discrimination against Negroes by unions affiliated with the AFL-CIO has been offered by the merged federation and the NAACP.

A two-year study of 16 unions reported a gradual but steady movement toward integration, according to a 64-page survey published by several AFL-CIO unions in cooperation with the National Labor Service of the American Jewish Committee. The study cited the UAW as an example of a union with no Jim Crow locals although it has a substantial Southern membership and said that the International Union of Electrical Workers has won 25,000 new Southern members despite the frequent resort by employers to racist anti-union propaganda. Another

bright note was reported in the aftermath of a five-week strike by the Rubber Workers Union that was called after management fired a Negro. When the worker was ordered reinstated by an arbitrator, "the whites carried their Negro fellow-worker back into the plant on their shoulders," the report said. If this study accented the positive, the NAACP emphasized the negative. An 11-page documented memorandum said that discrimination in the labor movement follows a pattern of total exclusion from union membership, segregated locals, or a separate system of job promotions. The memorandum included affidavits alleging discrimination against Negroes by members of these unions: Railway Clerks, Papermakers, Hodcarriers, International Brotherhood of Electrical Workers, Plasterers, and Plumbers. "All too often," said the memorandum, "there is a significant disparity between the declared public policy of the National AFL-CIO and the day-to-day reality as experienced by Negro wage earners in the North as well as in the South." In a separate NAACP protest, the organization charged that Negro workers pressing for public school integration in Front Royal, Va. had been met with economic reprisals in which the American Viscose Corp. had been joined by the local Textile Workers Union affiliate.

Court Decision. The U.S. Court of Appeals in Ohio rejected an appeal by a group of Negroes that the Brotherhood of Locomotive Firemen had unconstitutionally denied them membership. The court rejected arguments advanced in briefs filed by the ACLU and the Ohio Civil Liberties Union that the denial, based on race, was in violation of the due process protections of the First Amendment and the equal protection rights of the Fourteenth Amendment. The brief also pointed to the parallel in which the courts had struck down "separate but equal" school facilities. The appeals court, however, ruled that the governing Railway Labor Act merely insures that all employees have a vote in choosing their bargaining agent, and does not prescribe what membership qualifications the bargaining agent should impose. The court also did not find that the Brotherhood adopted certain practices "for the purpose of discriminating against Negroes."

The Cleveland branch of the Ohio Civil Liberties Union opposed the conviction of seven persons for conspiring to file false non-Communist affidavits under the Taft-Hartley law. The branch objected to the admission of testimony by government witnesses under an exception to the rule barring hearsay. The government witnesses quoted some of the defendants' remarks and some remarks by persons who were co-conspirators but not defendants, to the effect that Communist Party policy would prescribe false resignation from the Party in order to evade the affidavit requirements of the law. The seven on trial were shown by the evidence to have been former members of the Commu-

nist Party. The Cleveland CLU said the government's case attempted to establish a conspiracy centering around the specific criminal act of filing a false oath. But in the prosecution's attempt, statements by alleged co-conspirators should not have been accepted as evidence "simply because the defendants were officers in the same political party," the affiliate said. This made the defendants guilty of conspiring to file false oaths simply by their association in a political party, a conviction based on guilt by association, the statement declared. The verdict has been appealed.

Picketing. Two ACLU affiliates protested restrictions against peaceful picketing in local labor disputes. The Indiana Civil Liberties Union filed a friend-of-the-court brief opposing an injunction to halt picketing of a retail store in Gary by the Fair Share Organization, a group seeking to place Negro employees in Lake County, Ind. The brief said that although a business firm may suffer financially as the result of picketing, free speech protections of the Constitution must be paramount. The Maryland Civil Liberties Union strongly objected to the arrest of an entire International Ladies Garment Workers Union picket line by Baltimore police in order to permit non-union employees to leave the factory at quitting time without having to face the striking workers. The MCLU said the arrests were discriminatory and "repugnant" to democratic principles.

II. EQUALITY BEFORE THE LAW

THE FEDERAL SCENE

Congress. What seemed to many persons to be excellent prospects for new civil rights legislation disappeared in mid-August, 1959 with the decision by Democratic and Republican leaders to defer a showdown on a new law until the second session of the 86th Congress. Among the several factors that lay behind the move to delay action were the key parliamentary positions occupied by Southern legislators, the fact that the new Congress would be meeting in a Presidential election year, and the almost frantic desire on the part of many congressmen to adjourn the session before the official visit of Soviet Premier Nikita Khrushchev in order to avoid extending him an invitation to address a joint session of both houses, as protocol would have suggested.

The switch came as a disappointment to the ACLU, which had urged Congress to give "paramount attention" to new enforcement powers for the federal government at the outset of the opening session. The appeal urged the granting of authority to seek civil injunctions in the courts where any violation of civil rights is involved. The 1957 civil rights law allowed government intervention only where the right to vote had been violated. The Union pursued its drive for inclusion of wider federal power in testimony before the Senate Constitutional Rights Subcommittee, but such a section was not included in a "moderate" bill that was considered but did not pass.

In another Senatorial battle closely related to the fight over civil rights, the ACLU and 16 other national organizations were defeated in their efforts to end the filibuster. The groups condemned a "compromise" plan sponsored by Majority Leader Lyndon Johnson permitting an end to debate by a vote of two-thirds of the Senators present and voting. The civil rights organizations had proposed that such a two-thirds vote take place two days after filing of a cloture petition, or that a simple majority of the entire Senate be sufficient to end debate after 15 days. The filibuster foes also lost an attempt to establish the "explicit constitutional right" of the Senate to determine its own rules "unfettered by the past" in each new Congress. By establishing this right the way would be open to change the basic cloture provision. The Johnson "compromise," however, maintained the Senate as a "continuing body," thus keeping alive the old two-thirds cloture rule that has blockaded effective civil rights legislation.

Civil Rights Commission. The federal Civil Rights Commission, whose life was extended for another two years in the closing days of Congress, reported to the President that constitutional guarantees were

being flaunted in open discrimination against Negro voters in the South. "Many Negro American citizens," said the Commission, "find it difficult and often impossible to vote. . . . Against the prejudice of registrars and jurors, the United States Government appears under present laws to be helpless to make good the guarantees of the United States Constitution." To remedy the situation described in the Commission's report—which included numerous instances of violence, economic pressure, and legal subterfuge—the panel made the following recommendations: 1—the appointment of temporary federal registrars to take over in areas where Negroes have been prevented from voting; 2—congressional legislation requiring state voting records to be maintained for five years and kept open for inspection; 3—a law permitting federal court suits compelling registrars to perform their functions in order to combat a common practice of hardly ever meeting at all; 4—compilation by the Census Bureau of comprehensive statistics on Negro and white voting and registration.

Although most of the Commission's attention was concerned with the voting problem, a section of its report devoted to education noted without comment that the U.S. Supreme Court decision on school desegregation must be accepted as "the authoritative interpretation of the law of the land." The three Northern members of the commission urged an end to federal aid to institutions of higher education if they bar any students for racial reasons. (*For additional developments in education see pp. 70-74.*) In its survey of the housing problem, (*For more on housing (see pp. 74-75)*) the panel suggested that the best answer to discrimination in housing was to build more housing units and then provide equal access to them without racial bars. "The need is not for a pattern of integrated housing," the report said, "It is for equal opportunity to secure decent housing." To break down housing discrimination, the Commission urged the President to issue an executive order stating the constitutional objective of equal opportunity and directing all federal agencies to shape their policies and practices to achieve this goal.

Predictions that the Commission would meet with defiance in the South (*See last year's Annual Report, pp. 51-52*) have been amply confirmed by events in Alabama, Louisiana and Georgia.

In Alabama, when the Department of Justice filed a suit in behalf of several Negroes who alleged local registrars would not permit them to register, the registrars repeatedly refused to produce their voting lists; a federal court order authorized the Commission's staff to inspect them at the county court houses. Unfortunately the Alabama suit was dismissed because the defendant Board of Registrars had resigned, and the federal government moved to cite the state of Alabama as the defendant.

A similar suit was brought in Georgia but a federal District Court judge ruled that the 1957 Civil Rights Law was unconstitutional because it allowed the government to move against private citizens even though the particular case being prosecuted concerned "state action." A conflict arose in Louisiana where a third suit was instituted. The law's constitutionality was upheld, but a U.S. Court of Appeals invalidated the Commission's hearing procedures for failure to provide for the right of identification and confrontation and cross-examination of those persons who filed complaints with the Commission. All of these cases are being appealed.

Armed Forces. The ACLU criticized the refusal by the Air Force to transfer a Negro sergeant whose daughter was required to attend an off-base segregated school. In a letter to the Secretary of the Air Force, executive director Patrick Murphy Malin condemned the action as contrary to "the national policy of integration." The Negro airman asked for the transfer after officials at the Little Rock air base decided that under a law passed by Congress a new federally-financed school for Air Force personnel's children must follow the local segregated pattern. The refusal to honor the request for a transfer, said Malin, in effect enforces a practice which the U.S. Supreme Court has found to be unconstitutional. The school was later integrated in the fall of 1959 as an aftermath to the desegregation breakthrough in Little Rock.

STATE AND LOCAL ACTION

Violence. A report compiled by three nationally-known organizations revealed a record of 530 specific acts of violence in 11 southern states in the four years ending January 1, 1959. A joint statement by the three groups deplored the widespread erosion of civil liberties demonstrated by the acts of lawlessness and added: "We feel an obligation to call attention to the dangers posed by the record—dangers for which all of us, through silence or inaction, must share the responsibility." The groups which issued the joint report were the American Friends Service Committee, the Southern Regional Council, and the Department of Racial and Cultural Relations of the National Council of Churches. The itemized tally of violence based on press reports listed 45 bombings of homes, schools, churches and synagogues; dynamiting of two civic agency locations; the burning of two schools and a church, and 15 homes struck by gunfire. Personal deaths and injury included six Negroes killed, 29 persons—11 of them white—shot and wounded in racial incidents, and one Negro emasculated. The report found 95 acts of reprisal including vote purges and economic boycotts, as well as 210 instances of intimidation.

NAACP Harassment. The Alabama Supreme Court refused to be bound by a U.S. Supreme Court decision setting aside a \$100,000 fine for contempt of court against the NAACP. (*See last year's Annual Report, p. 40.*) The state court's refusal was based on the belief that the Supreme Court had assumed the NAACP had turned over some of its records while refusing to turn over its membership rolls. Actually, said the Alabama tribunal, the organization had not complied with any court orders and therefore "is still in contempt." The action left it up to the NAACP to file an appeal in the federal courts, which can void the fine again if it sees fit. Similar curbs against the NAACP were found unconstitutional by a federal three-judge panel in Virginia. In Georgia, where the legislature also voted a demand for the group's financial records, the U.S. Supreme Court postponed hearing an appeal until the Georgia courts actually impose a fixed financial penalty. Arkansas passed a law prohibiting any state agency from hiring a member of the NAACP. The bill was part of a 15-part "package" designed to drive the organization from the state. The state Supreme Court, however, struck down a law that would have required the NAACP to report on its membership and finances.

After the Florida Supreme Court rejected a 1957 challenge by the Florida Civil Liberties Union of the authority of a state legislative committee to subpoena books and records (*see last year's Annual Report, p. 53*), 15 persons who refused to answer questions or produce NAACP records were ordered to do so by a lower state court. The Florida Supreme Court affirmed this order except for a few questions that it held were not pertinent. It said there was no showing that identifying persons as NAACP members would invade their constitutional rights. The U.S. Supreme Court refused to review this case so the matter is back before the lower state court to modify and make final its original order to respond to the state committee.

Less complicated but equally distasteful problems have beset the new Tampa Bay chapter of the Florida Civil Liberties Union. Unable to find an unsegregated meeting place on one occasion, the chapter met in a Negro undertaker's chapel.

Voting Rights. Asbury Howard, a Bessemer, Alabama Negro civic leader, completed his six-months sentence on a road gang in July, 1959, mooting an ACLU-supported appeal involving what the Union believes is a flagrant violation of civil rights. The ACLU is also supporting the appeal of Howard's son, Asbury, Jr. who was sentenced to a year in jail while trying to defend his father against an attack by 40 white men inside the City Hall. Howard was set upon after his conviction under a local ordinance forbidding publication of "intemperate matter tending to provoke a breach of the peace. . . ." His "crime" was to have a

newspaper cartoon copied into a poster in order to encourage Negro voting registration. Howard is head of the Bessemer Voters League. His son was convicted of disorderly conduct and resisting arrest for trying to help his father resist the mob while local police stood by doing nothing. Asbury, Jr. was also injured in the melee.

The ACLU had earlier emphasized the inaction of municipal police in protesting the attack to the Justice Department. The Union, in a letter by executive director Patrick Murphy Malin, urged an investigation by the government to determine if Howard's federal civil rights were violated on the grounds that since he was brought to City Hall under a "compulsory appearance," he was at least entitled to police protection while there. In addition, Malin cited the disregard of Howard's First Amendment rights of free speech in his arrest while seeking to reproduce a newspaper cartoon. But after an investigation the Justice Department refused to intervene in the case.

Less dramatic but equally significant discrimination against Negro voters in Florida was disclosed by the ACLU of Greater Miami in a report on registration practices in Dade (Miami) County. The analysis showed that Negro and white registrants are so identified in precinct voting lists, making possible the distribution of campaign literature slanted separately to each group. In addition, Negro voters are frequently compelled to make long trips to county headquarters, are forced to wait on unduly long lines, and often are met by hostility by county officials when seeking to register.

Churches. A number of Christian denominations have come out strongly against racial segregation. They include the Protestant Episcopal Bishops, the Roman Catholic Bishops of the U.S., and the Council of Bishops of the Methodist Church. In addition, two major groups have pledged financial aid to churches financially hurt by moves to integrate. These are the United Presbyterian Church in the USA and the Congressional Christian Churches. The southern membership of the Presbyterian unit also voted to oppose the use of church buildings as classrooms to circumvent the U.S. Supreme Court decision. Against this background, however, considerable discrimination is still reported to exist among Southern church membership and at least two ministers have been forced to resign because they publicly supported desegregation in church and school. The 9,000,000-member Southern Baptist convention, for example, was sharply split in an hour-long debate over a proposal that its leaders meet with Negro Baptists. The Southern Baptist Conference, meanwhile, joined with the Protestant Episcopal Church in South Florida and the National Conference of Methodist Youth to attack what they called a spreading effort to associate desegregation and subversion in the South. Eleven social action leaders called the movement a "southern version of McCarthyism."

Up North. The New York State Commission Against Discrimination reported that it received more complaints in the first nine months of 1958 than at any other similar period since the Commission was formed in 1945. Most of the complaints were filed by Negroes in the field of employment. The New York City Board of Education requested textbook publishers to reproduce "representation of non-white individuals" in their publications. The Michigan civil rights agency reported that although "no discrimination of any kind" exists in voting privileges and "little or no" school segregation, bias still continued against Negroes in housing, employment for Negro teachers, and police treatment of Negro prisoners.

In Minnesota, discrimination by a cemetery owner was found illegal in a case involving an American Indian who wished to be buried alongside her Scandinavian-American husband in a plot they own in Sunset Memorial Park. A state district court held that discrimination by a cemetery was contrary to the public policy of the state, as expressed by its legislature, in matters of bias because of race, color, creed or origin. The Minnesota Branch of ACLU backed the Indian woman.

Elsewhere in the North, California, Idaho and Nevada repealed their ban on marriages between whites and non-whites; Indiana and Oregon removed a race designation on their absentee ballot; California, Pennsylvania and Massachusetts established civil rights sections in their Attorneys General offices; the Oregon legislature formally ratified the Fifteenth Amendment protecting equal rights for whites and non-whites; and the California legislature approved the Fourteenth Amendment's guarantees against abridgement of citizens' rights.

In the field of equal rights for women, the U.S. Supreme Court refused to review a decision of a Texas court denying an application for admission of women to Texas A. & M. College. A new suit has been filed with ACLU support, relying on the protections of the Fourteenth Amendment. The Texas Supreme Court had ruled that Texas A. and M. was essentially a military school and that there are other state-supported schools with equal facilities available for women. A new suit backed by the ACLU has been filed which seeks to show that Texas A. and M. is not a military school and the exclusion of women violates the Fourteenth Amendment.

GENERAL DEVELOPMENTS

1. Education

The 1959 school year in the South was the first time in three years that classrooms reopened in an atmosphere of comparative calm. There was no major violence. There were no federal troops. In these "negative"

facts are a clue to some of the "positive" forecasts made by organizations deeply involved in the school integration struggle. The NAACP reported that "the beginning of the end" was in sight for advocates of massive resistance to desegregation. And the authoritative Southern Regional Council detected three currents which it thought would slowly carry forward the process of integration: 1—The growing isolation of the five "hard core" states of Alabama, Georgia, Louisiana, Mississippi and South Carolina—where not one Negro child has been admitted to an all-white school—"will mean a weakening of (their) influence in the region, in the national political parties, and in Congress." 2—The "profoundly impressive" emergence of a citizens' protest movement aimed at the closing of public schools—even by persons who believe in segregation. Such southerners, principally in Arkansas and Virginia, "have scaled their values and found that they believe in public schools more than in racial separation." 3—The growing emancipation from narrow regional attitudes has given rise to a new kind of discussion about the race issue. Essentially, it is a search for an answer to historic problems in more rational terms. Can violence be tolerated? Can the cost of private schools be paid for? "Can we risk our recent economic gains by policies that will close schools and invite public disorder?"

If these are the new terms of public discussion, the SRC finds the murmuring of debate being held against a background of modest progress. At the end of the 1958-1959 school year, there were only 206 Negro youths enrolled side by side with white pupils in the 11 states of the South with the exception of Texas. Of these, 45 were in the federally-owned public schools of Oak Ridge, Tenn. The chief weapons of segregationist leaders remained the same: pupil placement laws in seven states; school closing statutes in nine states; private school plans with tuition grants in five states; and harassment of the NAACP by all the southern states with the exception of North Carolina.

Again, Little Rock. The start of classes in Little Rock, Ark. in August, 1959 was in marked contrast to the mob riots that focused the national and world spotlight on Central High in September 1957. Following a school board election in which segregationist candidates backed by Governor Orval Faubus lost, three Negro girls were admitted to Central High without incident. Although a jeering mob appeared on the first day of classes and was held back with night sticks and water hoses, the scene was mild compared to 1957. The school had been closed since the end of the 1957-58 school term, but a federal court overturned the state law under which Governor Faubus acted. Meanwhile, three private, all-white high schools that had been opened to evade the court ruling were closed because of financial difficulties. Shortly after integrated classes got underway at Central High, however, dynamite-wielding terrorists, who were quickly apprehended, bombed

the offices of the school board and the mayor. In the courts a U.S. Court of Appeals overturned a lower federal court and ruled that the state's pupil placement law was constitutional in a suit involving the Dollarway School District in Pine Bluffs. The decisions will be appealed. Also due for a legal test is a state law permitting segregated classes within integrated schools.

Virginia. Prince Edward County, site of one of the U.S. Supreme Court's original test cases in the 1954 school desegregation decision, is still the scene of a legal challenge that could make or break Virginia's efforts to circumvent the high court ruling. Following the reversal by the U.S. Court of Appeals of a lower federal court verdict that gave the county until 1965 to begin desegregation, parents of hundreds of children organized a private foundation to operate all-white schools. The school opened to 1,500 pupils housed in churches and civic buildings. The NAACP has appealed further, however, to force Prince Edward County to keep its public schools open. They were shut down under a state law that gives local communities "freedom of choice" on whether to admit qualified Negroes to white schools or whether to transfer financial support from the public school system to private segregated schools jointly financed by the state and the locality. In other Virginia communities there was slow, token progress towards integration in the wake of Governor J. Lindsay Almond's warning that the state cannot "suffer the catastrophe of permitting the public school system to be destroyed."

North Carolina, Florida. Two integration firsts will be registered in both states, where local school boards voted to permit enrollment of Negro students. The Craven County, N.C. board decided to allow children of Negro military personnel at a nearby Marine base to enter the previously all-white school rather than transport them 20 miles to an all-Negro school. And in Miami, four Negroes attended the Orchard Villa neighborhood school although white families have been moving out of the area in droves in anticipation of the change. The school was built to accommodate 400, but only eight whites showed up on the opening day of classes.

Alabama, Georgia, Louisiana. Two Alabama schools, one urban and one rural, will be converted to private operation to demonstrate the feasibility of the system if a change on a large scale becomes necessary, *Southern School News* reported. Governor John Patterson said the people of the state would rather scrap their public school system "than submit to integration of the races." Atlanta public school officials have been ordered by a federal court to produce a desegregation plan by December 1, 1959. But the ruling, which said the plan could be submitted contingent on action by the Georgia legislature, left doubt

whether Atlanta schools would begin a gradual process of integration or be closed under state laws. A deadline was also ordered by a federal judge in New Orleans, which gave officials until March 1, 1960 to present a plan of desegregation. Judge J. Skelly Wright suggested a grade-a-year plan, such as the one now in operation in Nashville, Tenn. for the third year. Also in Tennessee, Memphis State University enrolled eight Negroes for the first time.

Border Areas. The grade-a-year plan was also ordered by a federal court to be instituted in Delaware public schools although the NAACP, here as in Nashville, urged complete integration. Neighboring Maryland reported that 5,000 additional Negroes will enter previously all-white schools in the fall of 1959, although much of the expansion of desegregation is the result of a high Negro population in formerly all-white neighborhoods. This is the same situation as reported by the Missouri Advisory Committee of the federal Commission on Civil Rights, which said that population shifts have resulted in a large percentage of Negro children attending what are, in effect, Negro schools. Integration rulings would remain a "mockery," the Committee said, unless bias in housing were abolished. In the Southwest, Alluwe County in Oklahoma will integrate its schools for the first time, joining a number of counties that have already done so. A federal judge in Texas refused to order Dallas to integrate its schools in the fall of 1959, but he warned that integration is simply a matter of "when." In Houston, where an NAACP suit has been filed pressing for desegregated schools, a Negro woman defeated two white candidates in an election for the city's school board. Mrs. Charles E. White campaigned on a platform calling for peaceful desegregation of the schools.

Action in the North. The New York Civil Liberties Union formed a special committee to study issues raised by two cases in which courts have been asked to determine whether segregation exists in the schools of the nation's largest city. Both are appeals from decisions handed down in Children's Court. In one case, several Negro parents were found guilty of neglect in refusing to send their children to schools they branded inferior. In the second verdict, Justice Justine Wise Polier ruled that parents of two other Negro students were innocent of neglect because the schools to which they were assigned did, in fact, offer "inferior educational opportunities . . . by reason of racial discrimination." Justice Polier found no evidence of gerrymandering of school districts to promote segregation, but she did hold the Board of Education responsible for a policy barring forced transfer of teachers that resulted in a less qualified staff and reduced services in schools attended almost exclusively by Negro and Puerto Rican children. Pending the outcome of the appeal, the affected students are attending

another school. The issue of teacher assignments and transfers also arose in a disagreement between the New York City Board of Education and the city's Commission on Intergroup Relations. COIR charged that "little or no" progress had been made toward integration because many teachers object to assignments in difficult areas and because zoning of school districts has reflected segregated housing patterns. A Board spokesman challenged COIR, declaring that "very considerable progress" had been made in eliminating segregation in the schools.

2. Housing

The ACLU adopted a new policy statement in June, 1959 urging state and local governments to take legal action against discrimination in the sale or rental of private housing on grounds of race, creed, color, national origin or political affiliation. The Union statement came as four states adopted new laws barring discrimination in private housing. The policy statement recognized that a conflict of civil liberties principles occurs in the private housing field between reserved private rights such as freedom of association and non-association, and non-discrimination. In choosing "on balance" between the alternatives, the Union declared that "the degree of public interest at stake in removing . . . discrimination from private housing is now large enough to demand its legal prohibition. The right to equal protection of the laws," added the ACLU, ". . . makes such prohibition . . . not only desirable but constitutionally necessary, by federal, state, or local action—legislative, executive or judicial." Noting that various states and cities will deal differently with legislation covering private housing discrimination, the Union said that neither its national office nor any of its 27 state affiliates need oppose or refrain from supporting such legislation just because it contains exceptions to the general prohibition of discrimination. The ACLU statement said the Union will take action on specific proposals as they arise.

Legislation. The 1959 legislative session witnessed unprecedented gains in combatting bigotry in housing. Four states—Colorado, Massachusetts, Connecticut and Oregon—prohibited discrimination or segregation in private housing, although the coverage of the statutes varied from state to state. The laws, the first enacted on the state level, were patterned after pioneer legislation adopted in New York City in December 1957 and in Pittsburgh a year later. In addition, California barred discrimination in publicly-aided housing. The state and local boxscore now shows 14 states and 32 cities with laws restricting racial or religious bias in housing.

The first test of the Washington state law prohibiting discrimination in publicly-assisted housing is before the state Supreme Court

and may be fought all the way to the U.S. Supreme Court. The State Board Against Discrimination is appealing a ruling by a lower court that it could not compel a white couple to sell an FHA-insured home to a Negro family which had offered to buy it. The Superior Court judge found that because the white buyer, Navy Commander John J. O'Meara, purchased his FHA-insured home two years before the state passed the anti-discrimination law in 1957 he is free from the act's limitations.

The Appellate Division of the New Jersey Superior Court, meanwhile, upheld the constitutionality of the state law banning bias in publicly-aided housing in ordering the state's anti-discrimination agency to proceed with a discrimination complaint against William J. Levitt & Sons. (*See last year's Annual Report, p. 61.*) The builder had argued that since the homes he erects are not insured by a federal agency and because the individual home buyer obtains the FHA or VA mortgage on his own, the builder is not subject to the state law. The court rejected this contention as "without merit." The case against New Jersey's Levittown was supported by the Greater Philadelphia Branch of the ACLU in cooperation with a newly formed state group to fight discrimination in housing. Although no Negroes live in the New Jersey development, Negro families have bought homes from whites in the firm's two other projects in Pennsylvania and Long Island.

State and Local Issues. The Detroit Commission on Community Relations charged that the city's Public Housing Commission has continued a *de facto* policy of segregation despite a 1954 federal court ruling that held the practice to be unconstitutional. The housing body immediately denied the accusation and said that families of any race preferred to be located in areas near their work, churches and friends. "Occupancy patterns are controlled by the desires of the applicants," said the housing commission. Two Negro families moved into a building on Chicago's West Side under heavy police protection after previous rioting resulted in the arrest of 14 persons. The first Negro family moved into a Philadelphia suburb despite threats and property damage. The Rhode Island Committee on Discrimination in Housing reported to the ACLU that since mid-1957 the number of non-white families in public housing in Providence has grown from 40 to 325.

Welcoming Committees. Newspaper advertisements carrying statements of welcome and "covenants of open occupancy" have been appearing in many cities. Frequently signed by hundreds of local citizens, the campaigns against housing discrimination have been featured in communities from coast-to-coast, including Palo Alto, Cal.; Des Moines, Iowa, where the Iowa Civil Liberties Union was a sponsor; Philadelphia; and Bloomfield, N.J.

3. Employment

Legislation. The industrial states of California and Ohio joined 14 other states, including Alaska, which have fair employment practices laws enforced by commission procedures. Although Missouri failed to pass an FEP law, it did approve a bill barring discrimination in state employment—the first such measure in a Southern or border state. The measure has no criminal sanctions, however. Missouri also gave permanent status to a commission on human rights that was formed in 1958 on a temporary basis. Additional progress was registered in Connecticut and New Mexico, which strengthened their existing FEP laws; and in Oregon and Connecticut, which joined Massachusetts, Pennsylvania and New York in prohibiting discrimination because of age. Unsuccessful campaigns to pass or strengthen laws against job bias were waged in Arizona, Illinois, Maine, Nebraska, Nevada, South Dakota, Washington and Wisconsin. The sixteen states that do have enforceable FEP laws cover a population of approximately 70 million persons.

President's Committee on Government Employment Policy. The NAACP returned to the attack against this committee and against its counterpart in private employment, the President's Committee on Government Contracts. (*See last year's Annual Report, p. 64.*) "Agencies of the federal government," asserted the NAACP statement, "have done little during the past year to eliminate racial discrimination and segregation in the field of employment. The evidence clearly indicates that by action and inaction, directly and indirectly, the Executive branch has violated its own proclaimed policies of non-discrimination in both federal employment and in the operation of private firms holding government contracts. . . . The employment practices of contractors receiving federal monies could have a decisive impact on the job patterns of Negroes throughout the United States. However, there is widespread and flagrant violation of the anti-discrimination clause in the government contracts held by major, multiplant, national corporations. NAACP experience indicates that the twin Presidential committees have failed to enforce the government's non-discriminatory employment policy, vigorously and consistently."

Data paralleling the NAACP charge was presented by William Peters in his book, *The Southern Temper*. Among the evidence he cited was: Greensboro, N.C., houses more than 20 federal agencies, but only two—the Post Office and the Postal Transportation Service—employ Negroes in other than menial jobs. The U.S. Naval Shipyard in Charleston, S.C. employs 7,000 people of which 40 per cent are Negroes. But only half a dozen are supervisors and some of these hold "ghost" titles with few if any subordinates. In Atlanta, where the city administration has taken a leading role in integrating public facilities, only five Negroes are perma-

nently employed above the janitorial level among the city's 30 federal agencies. Peters also reported that bias by private companies holding government contracts has been dealt with ineffectively by the President's Committee. This is both because of the "built-in weakness" of the Committee's purely advisory role and because of its "avoidance of recommending sanctions in stubborn cases" of discrimination. Firms cited by Peters in this category included Boeing Aircraft in Wichita, Kan. General Motors and the Ford Motor Co. in its southern plants and four major oil companies with facilities in the South. The President's Committee on Government Employment Policy, in its third report to the President, appears to have taken at least oblique notice of such accusations as those voiced by the NAACP and Peters. "Federal employment at the lowest levels appears to be available to all groups, but as the scale rises a disparity develops between the total number of minorities employed and the number of minority-group members in the higher positions. This does not prove discrimination, but it poses the question. . . . Federal employment, like private employment may reflect the pattern and climate of the local community. Nevertheless, the agencies have displayed genuine concern in the elimination of discrimination when it appears."

In a statement to the ACLU, the Committee defended itself against the public charges made against it. The statement declared: "The Committee believes its record during the past four years is one of progress, although not one of mission accomplished. It has seen progress not only in the many instances of successful fair employment operations which are reported to it, but more in what it believes to be a changing climate of opinion in government operations with respect to the non-discrimination policy—a climate reflected in agency activities which are strengthening the effectiveness of the policy." The Committee noted with pride that it had held field conferences with nearly 3,000 federal administrators in 27 cities to discuss methods to implement its program.

State and Local Actions. A New York state Supreme Court justice overruled a finding by the State Commission Against Discrimination and barred the Arabian-American Oil Company from asking job applicants their religion.

In other areas, the Michigan FEPC charged that many boards of education in the state discriminate in the hiring and placement of teachers; the FEPC of Minneapolis reported that job bias continued to be a "sizable problem" in the city; the Philadelphia Commission on Human Relations announced it had investigated 101 complaints in 1958 alleging bias in employment, but could establish positive discrimination in only 17 cases; and in Washington, D.C. the District of Columbia Bar Association made good on its seventh attempt in 10

years and mustered the two-third vote necessary to admit Negro lawyers to membership. The margin was comfortable—45 votes.

4. Public Accommodations

Legislation. Progress made against bias in housing and employment was paralleled in winning wider access to public accommodations regardless of race, religion, or nationality. Maine became the 24th state to pass such an enforceable statute, and California, Connecticut, Kansas and Wisconsin improved the effectiveness of their existing laws. Washington passed a law forbidding applicants for financial credit to be asked their race, religion or national origin.

Enforced transit segregation ended in January, 1959 in Atlanta, one of the last major Southern cities where separate seating of whites and Negroes was required until overturned by a federal court edict. Despite the fact that the official ban was over, many Negroes continued—out of habit preference—to sit in the rear of the buses and trolleys. In Birmingham, however, where a local segregation ordinance is still in effect, the ACLU strongly protested the arrest of three local clergymen who challenged the law. The Union condemned "shocking violations of due process of law" in police treatment of the clergymen, who were held incommunicado in jail and denied access to their counsel. Three clerics from Montgomery, Ala. who were visiting their Birmingham colleagues were arrested for vagrancy, but the charges were later withdrawn. A fourth Negro minister in Birmingham was arrested and convicted of violating the state boycott law by urging his congregation not to ride on the city's segregated buses.

Recreational Facilities. The U.S. Supreme Court reaffirmed its stand against discrimination in tax-supported public facilities such as golf courses, parks and playgrounds in rejecting an appeal by the New Orleans city park association. The city of Atlanta desegregated its public library system, averting the possibility of an ACLU-supported court test by local Negro citizens. No public change of policy was announced to avoid a "fanfare," and the new policy seems to have attracted no outcries by segregationists. Other cities where libraries are open to all regardless of race include Nashville, Chattanooga, Little Rock, New Orleans, Richmond, Louisville, Charlotte, Durham, Miami, and Tallahassee. Segregated library facilities persist in major Alabama and South Carolina cities.

Pressure from the Ku Klux Klan and the local White Citizens Council has forced the resignation of the director of the Hale Memorial Hospital for tubercular patients at Tuscaloosa, Ala. In addition, the segregationist groups tried to force the ouster of two other hospital

employees and made threats to five nurses. The pressure began after the extremist organizations charged that white nurses were required to perform certain unspecified duties for Negro patients. The U.S. Supreme Court refused to review a claim by three Negro doctors that their exclusion from the James Walker Memorial Hospital in Wilmington, N.C. on racial grounds was unconstitutional. The court's refusal was based on the fact that the hospital was a purely private institution and that "purely private conduct, however discriminatory or wrongful," does not fall within equal protection clauses of the Fourteenth Amendment.

AMERICAN INDIANS

In the field of American Indian affairs the ACLU has begun to play a leading role again, after several years of relative inactivity. The Union's Indian Civil Rights Committee, formed originally almost thirty years ago, acquired a new chairman last fall—Dr. Burt W. Aginsky, Professor of Anthropology and Sociology at City College of New York. Under his leadership, the Committee held a number of meetings, ironing out policy questions in a number of areas and taking action in several specific cases.

On the thorny question of termination of federal trusteeship, opposed by most Indians even though its proponents in Congress have offered it as "emancipation," the Committee agreed "to oppose forced termination and equally to oppose forced continuation of Indian tribal life and culture. We believe that this is for the Indians in each case to decide for themselves. Like American citizens of other ancestral and cultural backgrounds, Indians should be free to merge with the general population, or to continue their traditional way of life."

After long debate, the Committee decided to support the Seneca Indians in their action before the U.S. Supreme Court challenging Congress' right to take their lands in western New York State for the Kinzua flood-control dam reservoir without passing a special act specifically referring to the Treaty of 1794—signed by President George Washington—guaranteeing to the Seneca Nation its ancestral lands in perpetuity. Congress had merely passed a General Appropriations Act which authorized the building of the dam but made no mention of the Senecas or their treaty. On-the-spot investigation by Dr. Aginsky convinced the Committee that inundation of their lands could destroy the Senecas' existence as a tribe and would bring to an end the religious and cultural customs which give meaning to the life of their people. The key point, made by Committee member Professor Charles Black of the Yale Law School, was that just as the ACLU demands clarity in anti-subversive legislation, so its concern for due process requires the

Union to demand equal clarity in Indian legislation. The ACLU communicated its views to the House Appropriations Committee, which a few days later voted to halt further work on the Kinzua dam (still fundamentally in the drawing board stage) pending further study of an alternate plan proposed by Arthur Morgan, former head of the TVA. This provision, however, was eliminated from the bill passed in the Senate. In conference, the Senate version was approved, leaving the way clear for the construction of the dam after the President's second veto was overridden.

The ACLU's Indian Committee also takes part in the deliberations of the Council on Indian Affairs, made up of representatives from some fifteen Indian-interest organizations (half of them church groups). Through this coordinating agency, the ACLU has established cordial relations with Secretary of the Interior Fred A. Seaton and Assistant Secretary Roger Ernst, who have had much to do with recent improvements in the government's approach to Indian affairs.

III. DUE PROCESS UNDER LAW

FEDERAL EXECUTIVE DEPARTMENTS

1. Citizenship, Naturalization, Deportation

Political Asylum. The ACLU won two important victories underscoring the principle that persons seeking political asylum are entitled to full and fair hearings by U.S. authorities in an atmosphere free of intimidation. Both cases involved escapees from Communist Poland whom the Immigration and Naturalization Service had originally set out to deport.

Polish seaman Richard Eibel was arrested during the summer of 1958 for overstaying his shore leave when he jumped his ship in New York. His claim of political asylum was rejected and Eibel was put back aboard his vessel. Quick intervention by the ACLU resulted in an interview for Eibel when the ship docked in Mobile, Ala., but the Union protested the fact that it was conducted on the very vessel, owned by the very government, from which Eibel was attempting to flee. The pressures of intimidation in such a setting, said the ACLU, violated principles of fair treatment and due process. When the vessel docked a few days later in New Orleans, an ACLU attorney won a writ of *habeas corpus* in the Federal District Court. Hours later the Immigration Service granted the 24-year-old sailor a 29-day conditional landing permitting him to leave the U.S. in the ship of a non-Communist country and re-enter as a non-quota immigrant. The Justice Department's original claim in denying Eibel political asylum was based on the allegation that he was not a bona fide political refugee and that present Polish policy is to allow its citizens to emigrate freely to the U.S. This was the same grounds on which asylum status was at first refused to Mrs. Krystyna Jurkiewicz and her 13-year-old son, Krzystof, though they claimed they would be physically persecuted if forced to return to Poland. The mother and son came to the U.S. on a visitor's visa in December, 1957, but were turned down when they sought to change their status to that of immigrants seeking political asylum. As Mrs. Jurkiewicz and her son were about to be deported, the Union, with the aid of the Polish-American Immigration and Relief Committee, obtained a federal court injunction charging that the couple had been denied a hearing on their refugee status. Subsequently, they won a rehearing on their case and an opportunity to apply for visas under the provisions of the 1958 refugee act.

A practice deplored by the ACLU (*See last year's Annual Report, p. 71*) was similarly condemned by the U.S. Court of Appeals in over-

ruling the government's contention that a refugee from the 1956 Hungarian revolution, Gyula Paktorovics, who had no visa, could be deported without a hearing and other due process rights. ACLU affiliates in Colorado and Northern California won the suspension of deportation proceedings in cases involving an application of the U.S. Supreme Court ruling in the case of Clinton Jencks. In that decision the high court said that defendants in government cases are entitled to see the pre-trial statements of prosecution witnesses. The Colorado Branch gained new hearings for three Mexicans who had been charged with membership in the Communist Party and the ACLU of Northern California won withdrawal of the government case against a husband and wife accused of sympathy towards communism on the basis of confidential information. The couple have resided here since 1937.

The U.S. Supreme Court agreed to review a 1956 law passed by Congress cutting off Social Security payments to persons who have been deported. The government is appealing a verdict by a lower court that Ephram Nestor, now in Bulgaria, had a vested or property right to continued payments of \$55.60 and that Congress could not arbitrarily cut off the allotments. The case of William Heikkila, meanwhile, may be heading to the high court for a second time. The government lost an attempt in the U.S. Court of Appeals to oust the Finnish-born draftsman on the grounds he had not filed his appeal from a deportation order within a 60-day limit. (*See last year's Annual Report, p. 69.*)

The ACLU registered its objection to a "serious retrogression" in the law affecting deportations contained in a proposal considered by the Senate. The suggestion was to return to pre-1952 legislation under which the Attorney General required individual congressional authorization to suspend deportation proceedings. Since 1952, the law has been that if Congress does not specifically reject the Attorney General's finding, his suggestion is permitted to stand. The Union applauded other sections of the pending measure, including liberalization of "national origins" quotas to end racial and ethnic discrimination, parole for escapees from totalitarianism, review of denials of visas and imposition of a 10-year statute of limitations on inauguration of deportation proceedings. The ACLU also had qualified praise for a section of the proposed legislation requiring "probable cause" for believing a person to be an alien before an immigration agent may question him without a warrant. Though calling the new language "an improvement" over existing law, the Union statement questioned "both the wisdom and the constitutionality" of this entire provision.

Illegal Searches. The ACLU of Northern California is protesting to the Immigration and Naturalization Service in Washington, D.C. the "dragnet methods" used by its San Francisco agents in invading factories, business offices and retail stores demanding to see the identi-

fication of *all* Chinese present. The affiliate condemned the illegal search on the grounds that agents should have "probable" reason to suspect a person as an alien before questioning him. The Southern California affiliate is suing the U.S. Border Patrol in the federal courts over the right of the unit to erect roadblocks anywhere but at the border. In another case, however, a California federal judge refused to bar evidence seized at a more distant checkpoint by the Border Patrol, relying on a federal statute which gives immigration officers the right to search for aliens "within a reasonable distance of the border."

Restoration of Citizenship. The Justice Department restored citizenship to 4,978 Japanese Americans—the last of a group of 5,409 Nisei who had renounced their citizenship in 1945 after three years of confinement in government "relocation centers" during World War II. The final property claims against government confiscation of Nisei property were signed in 1958. There were 26,558 settlements totaling \$36,874,240.

2. Confinement of Mentally Ill

Criminally Insane. Two legislative proposals will be made to the forthcoming session of the New York state legislature liberalizing the law governing criminal acts of insane persons. The recommendations for change are based on a study by the state Bar Association: Under the proposal, the century-old McNaghten Rule will be modified to permit a defendant to plead insanity if a mental disease or defect deprived him of "substantial capacity" to know right from wrong or to make his conduct "conform to the requirements . . . of law." Under present law, which goes back to the 1843 English decision, a criminal cannot be excused for insanity unless he did not "know the nature and quality of the act he was doing," or "know that the act was wrong." The changes had the support of mental health groups, but was opposed by New York City District Attorney Frank Hogan on the grounds it would result in many more insanity acquittals.

Commitment Procedures. The Cleveland Civil Liberties Union is preparing changes in court procedures which would make it more difficult for next of kin and others to obtain detention warrants and which would make it mandatory to inform an incoming patient of his rights to a hearing and other legal privileges. The affiliate's concern was aroused by a local case in which a sane man was committed on the authority of his wife's statement and confined 11 days before he won his freedom. During his confinement he was not allowed to contact a lawyer. The episode did not involve any technical violations of law, however. A major reform in this direction was accomplished by the Washington state legislature, which passed a measure providing for

immediate examination of persons detained because of an alleged mental condition and for immediate notification of next of kin.

3. Loyalty and Security

Three important decisions by the U.S. Supreme Court promised to have far-reaching effects on loyalty-security investigations by the federal government and the states. One opinion (William L. Greene case) ruled that Congress and the President had not authorized hearing procedures without confrontation and cross-examination in the Industrial Security Program. A second opinion (William Vitarelli case) cited the lack of confrontation and cross-examination in reversing a dismissal under the government employee security regulations. The third verdict was in sharp contrast to the court's previous rulings limiting the states' power to investigate subversion: the high court upheld the power of New Hampshire to combat subversion in which the state itself was the target.

William L. Greene Case. The Supreme Court held that neither Congress nor the President had authorized an industrial security program in which defendants are not permitted to face their accusers. The opinion, which struck down a long protested procedure under the security system affecting 3,000,000 defense plant workers, was praised by the ACLU, which had filed a brief in the case, as "a long step . . . toward re-establishing the protection of due process for persons charged with being security risks." Although the court explicitly declined to make its ruling on constitutional grounds, five of the justices agreed on language strongly suggesting that constitutional issues were involved. Three other justices wrote a separate concurrence on narrower grounds. The majority opinion stated, however, that ". . . where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. . . . We have formalized these protections in the requirements of confrontation and cross-examination." The brief filed by the Union emphasized the ACLU's position favoring full confrontation and cross-examination in security proceedings. It noted that in the circumstances of the Greene case the government should be required to disclose these "neighbors, maiden aunts and casual busybodies" who testified against Greene or supplied derogatory information. Greene, an executive of a firm with which the Navy did considerable business, was suspended in 1953 after charges that he had associated with Communists, many of them former friends of an ex-wife. (*See last year's Annual Report, pp. 76-77.*)

Three days after the court's verdict in the Greene case, the ACLU

testified before a Senate subcommittee that only full confrontation "can avoid grave injustice," and pointed to other defects in due process that exist in security procedures. These include vague and inadequate charges, the introduction of irrelevant material, and the inability of an employe intelligently to appeal a hearing board's decision because he is not informed "what the findings are."

William Vitarelli Case. A unanimous court also cited the lack of confrontation of non-professional undercover witnesses in reversing the dismissal of Vitarelli, an Interior Department employe who was a schoolteacher on a Pacific Island. Instead of giving him a "fair (and) . . . dignified hearing," said the court, the Department subjected him to "a wide-ranging inquisition into (his) educational, social and political beliefs. Vitarelli was originally fired on security grounds, but when the U.S. Supreme Court ruled in 1956 that the federal employe security program applied only to "sensitive" positions, the government expunged the security charges against him and simply fired him all over again—this time giving no reason for the ouster. Echoes of the 1956 court decision in *Cole v. Young* again were heard in Congress as an attempt was made to widen the federal security program to cover all government workers, whether or not in sensitive positions. The ACLU strongly opposed the proposal to extend the program in the belief that such loyalty tests should be confined to "narrow limits, to sensitive jobs that directly affect the national security. The testing of reliability," declared the Union, ". . . is most often a matter of testing political reliability, of possible disloyalty. Searching out such defects involves extensive probing of private beliefs, opinions and associations. The methods that have been used have been . . . repressive and sometimes arbitrary."

Willard Uphaus Case. A closely divided U.S. Supreme Court upheld the contempt conviction of Uphaus, director of an adult camp called World Fellowship Center, who had refused to give the New Hampshire attorney general membership and other information about the group in a state probe of subversion. Uphaus claimed that the high court's ruling in the 1956 Nelson case had left the states powerless to investigate subversive activities because Congress had so completely preempted the field. But in an apparent clarification of the Nelson case verdict, the Uphaus majority said that what was intended previously was to head-off "a race between federal and state prosecutors to the courthouse door. . . . The opinion (in the Nelson case) made clear that a state could proceed with prosecution for sedition against the state itself. . . ." Since New Hampshire was investigating Uphaus in the interests of self-preservation, said the opinion, "this interest outweighs individual rights." The dissenting justices took the opposite view, adding that the state probe was one of "impermissible exposure for ex-

posure's sake" which violated rights of free speech, assembly, and privacy.

Government Agencies and Departments. Responding to complaints by the ACLU of Northern California, the Atomic Energy Commission has reformed its practices on two counts: henceforth the AEC will inform individuals personally and privately that they are wanted for interrogation by security officers, rather than relying on transmission of such messages by third parties; and the agency reminded its field offices that there was no objection to the presence of counsel at informal interviews held prior to a security hearing. The latter change was made after the affiliate and the national ACLU protested a field office's denial of such a request, followed by reluctant permission to allow counsel to be present. The Federal Communications Commission is also involved in action by the ACLU of Northern California, which is appealing an initial FCC decision upholding a loyalty oath requirement by some persons seeking to renew their radio licenses. The affiliate contended that the oath requirement violated due process and that Congress made no mention of political standards when it created the FCC in 1934. The U.S. Court of Appeals, acting in accordance with the Greene decision, ordered reinstatement by the Sperry Gyroscope Co. of an employee who had been dismissed for past membership in the Socialist Workers Party. The case was supported by the ACLU.

SACB Listings. The U.S. Court of Appeals ruled for the second time that the Communist Party is a subversive organization dominated by the Soviet Union and must file its income, expenditures and membership with the Department of Justice. The ruling upheld a finding by the Subversive Activities Control Board, which first ordered the Party to register in 1953. That conclusion was reaffirmed without new hearings after the U.S. Supreme Court ordered reconsideration because the testimony of three government witnesses had allegedly been perjured. The case is expected to go back to the high court again. The Washington Pension Union was finally ordered to register after two years of consideration by the SACB. The long-delayed decision came as the organization was virtually defunct, so that a court appeal urged by the ACLU affiliate is uncertain.

State Loyalty Oaths. Four years of legal action has resulted in a split decision for two University of Washington Professors, Howard L. Nostrand and Max Savelle. (*See last year's Annual Report, p. 77.*) The pair, with the help of the ACLU of Washington, had sought to obtain a state-wide ban on a loyalty oath for public employes. The suit also sought to test the U.S. Attorney General's list of subversive organi-

zations as the basis for determining loyalty. The state Supreme Court upheld the right of the state to require public employes to sign loyalty oaths before they are hired, but it threw out a provision of the law in which the Attorney General's list was used as the yardstick of subversive activity. The Oregon legislature repealed a loyalty oath for civil servants. The Greater Philadelphia Branch of the ACLU won revision of the state employment form to eliminate questions about the applicant's political beliefs. The National Municipal League upon the urging of the ACLU eliminated references to matters of loyalty from a model state civil service law the group has sponsored since 1953. Similar action has been urged on the National Civil Service League.

Unemployment Insurance. A New York state appellate court ruled that the state must pay unemployment insurance to William Albertson, who had worked for the Communist Party for seven weeks in 1956. As long as the Party is permitted to exist and employ personnel, and as long as the state accepts payments from the Party into its unemployment insurance fund, there is no ground on which to deny a former employe the benefits he claims, the court held. The case, supported by the New York Civil Liberties Union, is one of several in which ACLU affiliates have intervened. In Pennsylvania, the Pittsburgh chapter has filed a friend-of-the-court brief before the state Supreme Court on behalf of Evelyn Darin, who was denied unemployment compensation when she lost her job after pleading the Fifth Amendment before a congressional committee. The brief asserted that the denial violates due process guarantees of the Fourteenth Amendment and free association guarantees of the First Amendment. Two other Pittsburgh cases are pending, awaiting the outcome of the Darin case. In a similar Maryland case supported by the ACLU the state Court of Appeals decided that a person was entitled to benefits if he was fired for refusing to cooperate with an investigating committee, but was not entitled to benefits if he refused to tell his employer whether or not he was a member of the Communist Party during a grievance committee meeting arising out of his job suspension because of his Fifth Amendment plea before the outside investigators. The ACLU of Northern California entered a brief on behalf of Marion Syrek, who won his claim for unemployment benefits after being dismissed for refusing to sign a private employer's loyalty oath. A second decision by the same judge has been appealed to the state District Court of Appeals. In this case Syrek was refused benefits after he refused to apply for a state job because of the state's loyalty oath for public employes.

Other State Actions. Despite the strong protests of the Civil Liberties Union of Massachusetts and many other public and civic

groups, the state legislature passed a bill reviving a state Commission to Investigate and Study Communism. The California Senate was of a different mind. That body granted no appropriation to a committee that has investigated communism for many years.

4. Military Justice

Right of Political Association. Although the U.S. Supreme Court ruled in the Harmon case (*See last year's Annual Report, pp. 79-80*) that the Army could not issue less-than-honorable discharges on the basis of pre-induction political activity, the Army has continued to employ political considerations in its policy towards reservists and prospective draftees.

The Army's right to issue an undesirable discharge to a reservist accused of membership in two Communist-front organizations was upheld by a Washington, D.C. Federal District Court. The test case was brought by Monte M. Olenick of New York City, who contended that he was improperly given the undesirable discharge. The ACLU and the Workers Defense League, in a joint letter to Army Secretary Wilber M. Brucker, charged that the Army was still investigating former members of the Independent Socialist League and the Socialist Youth League although both organizations were removed from the Attorney General's list of subversive organizations in 1958. They are now defunct. The letter also expressed continued concern, however, "with the problem of the Army's stigmatizing for life by either refusing to accept for induction or discharging from the reserves on security grounds those who have elected to perform their duties under the various draft laws." The Army replied that while former ISL or SYL membership was not the basis for initiating an investigation, if an inquiry was begun because of other activities all aspects of a person's political life would be checked.

The ACLU and its affiliates, particularly in Northern California, have been active in opposing the Army security program aimed at inductees and reservists. The ACLU of Northern California has fought successfully seven cases involving membership in the Chinese-American Youth Club, an organization never cited as subversive by the Attorney General but one which has aroused the suspicion of Army authorities. In one case, however, the ACLU appeared after a draftee had been given an undesirable discharge. The affiliate was instrumental in eventually winning an honorable discharge but the veteran was not kept in the reserves.

The ACLU requested the Army to permit alleged parole violators to have legal counsel at proceedings to determine whether the parole privilege should be suspended. The Union contention is that parole

suspension is "akin to the commission of a fresh crime," from the prisoner's viewpoint, and that presence of counsel can avoid "serious prejudice both to the prisoner and to society."

WIRETAPPING

Action in the States. The Maryland Branch, ACLU joined with the Baltimore *Evening Sun* to defeat the unrestricted use of an advanced "wireless tap" that can record conversations from a distance of several hundred feet. Following an editorial in the *Sun* and a supporting letter from the ACLU affiliate, the Baltimore County Council approved a measure requiring a court order for electronic eavesdropping on conversations where no instrument is used. The Connecticut Civil Liberties Union opposed two wiretap bills that were defeated in the legislature. One proposal would have granted a court order for a tap when "there is reasonable ground to believe that evidence of a crime may thus be obtained." The other recommendation would have permitted wire tapping with the consent of a home owner to investigate obscene calls.

U.S. Supreme Court. The high court refused to review an old ruling that evidence obtained by government agents wearing hidden microphones as they pretended to collaborate with criminals was constitutionally admissible. The high court also declined to review a case in which the district attorney of Lancaster County, Pa. had been sued for an injunction to prevent him from using evidence in a state court said to have been obtained in violation of federal wiretap laws. The Greater Philadelphia Branch filed a friend-of-the-court brief.

ILLEGAL POLICE PRACTICES

Illegal Detentions. A 47-page study by the Illinois Division of the ACLU revealing more than 20,000 illegal detentions by Chicago police has received widespread acclaim from legal figures, politicians, journalists and other public officials. Only Chicago police appeared irked by the report. The Detective Bureau returned its copy unopened. The survey, conducted in nine of the city's 16 Municipal Court branches, was based on a projection of a large sampling of 1956 criminal cases. It indicated that 20,000 defendants were held for at least 17 hours before they were booked; 2,000 were illegally detained two days or longer; and 350 held three days or more without charge, without bail, and without due process of law. "The practice of secretly holding arrested persons for the purpose of questioning them in a police station is not only a violation of personal liberty," commented the report; "it

is also a poor substitute for effective police work." Among the recommendations for reform urged by the Illinois Division were: notification by police of an arrested person's constitutional rights, permission by Municipal Court judges to cite police officers for contempt if they are found guilty of illegally holding prisoners; a daily public accounting of the number of prisoners held by police and other pertinent information on their detention; creation of an independent municipal bureau to investigate impartially citizens' complaints against police.

In other actions by mid-west ACLU affiliates, the Cleveland Civil Liberties Union obtained the release of two men held incommunicado by police for two days and the Detroit affiliate urged the creation of a night court to facilitate immediate hearings for arrested persons. The Rhode Island state chairman of the ACLU, a committee of the state Bar Association and the NAACP finally won the release of two migrant workers held as material witnesses in a murder trial from October, 1958 until June, 1959. Because of a failure by police to forward the men's mail, they did not even get a lawyer until February. The state Supreme Court ruled that since the pair were not given a sufficient hearing their due process rights under the Constitution had been violated.

A suit for false arrest by an Indianapolis couple is being supported by the Indiana CLU against two policemen who barged into the couple's apartment without a warrant and used their official positions to demand payment for a bill from a gas station. In two episodes of false arrest against nudists, the Michigan Supreme Court attacked the invasion of due process rights by police who descended on their camp fully clothed but missing a warrant; and in Arkansas the proprietor of a nudist camp pleaded guilty for purposes of appeal to charges of possessing "obscene" literature, but obtained withdrawal of charges of indecent exposure. In Arkansas it is now a crime even to advocate nudism, but the civil liberties restriction on this right of untrammelled association has yet to be tested.

Brutality. The city of Chicago and 16 policemen have been sued for \$3,000,000 by 13 Puerto Ricans on charges of false arrest and brutality. The suit was filed in the Federal District Court, which ruled that the city was immune from suit but that the policemen, as individuals, were not. The national ACLU has asked the Justice Department to investigate the episode. The suit charged that police rounded up the 13 in a dragnet, beat them, and held them more than 24 hours without granting permission to contact lawyers or post bail. The roundup was reported to be sparked by some tension between Italians and Puerto Ricans on Chicago's west side. The Illinois affiliate is appealing a refusal for a writ of habeas corpus on behalf of Emil Reck, convicted of murder in 1936 after 70 hours' detention during which he was

allegedly beaten, then confessed. Reck was sentenced and is serving a 199-year prison term. The Northern California ACLU, meanwhile, successfully defended a Negro who was brutally beaten by Oakland police, then arrested on a phony charge of drunkenness. A similarly unprovoked assault was the basis of a complaint by the Niagara Frontier (Buffalo) Branch to local police who were charged with beating a man awaiting a booking for carrying a loaded firearm without a license. A number of states and communities have passed "posting" laws designed to protect the rights of prisoners and reduce the number of illegal detentions and other violations of due process by informing the accused of their protections under the law. Such information is usually posted in police stations and courts. Illinois, where the ACLU affiliate supported such legislation, is the latest state to approve a "posting" law.

Illegal Search and Seizure. The U.S. Supreme Court, by a bare majority, upheld the right of a Baltimore public health inspector to enter a private home without a warrant to search for unsanitary conditions. The majority opinion said that the Fourth Amendment's bar against illegal search and seizure was meant to apply to a search for criminal evidence, not to a community's efforts to maintain sanitary health standards. The dissenting view feared the decision would open the door to Fourth Amendment violations. Standing alone, said the minority, the ruling "greatly dilutes the right of privacy which every homeowner had a right to believe was part of our American heritage." An Ohio case before the court, supported by the ACLU, raised the same constitutional issue. The ACLU and its affiliates were active in many cities in opposing illegal search and seizure. A five-page protest by the Indiana Civil Liberties Union similarly took strong exception to three examples of illegal search and seizure, as well as three other episodes in which police shot and killed fleeing suspects. The illegal searches, which all took place in private homes or apartments between the hours of midnight and 5 a.m., involved a hunt for four grocery store robbers; questioning of parents about their son, who was not charged with a crime; and the arrest of a man who had not paid 24 traffic tickets. A San Francisco high school teacher who defended her son against illegal arrest by a policeman who had no warrant to enter her home is being defended by the ACLU of Northern California. The St. Louis Civil Liberties Committee opposed a legislative proposal seeking to arm police with authority to arrest and search merely on the suspicion that a crime was about to be committed.

Registration Ordinances. A protest by the American Civil Liberties Union to the Mountainside, N.J. Borough Council outlined the Union's basic objections to local ordinances requiring persons with criminal records to register and submit to fingerprinting by police. The

Union said such laws infringe on two constitutionally protected rights—privacy and freedom of movement—in adding to a punishment for which the former prisoner has already served his time. "For those who feel that an ex-convict must always carry a criminal brand," said the ACLU, "we submit this only hinders his reform." The ACLU of Southern California is waging a three-front war against registration ordinances in Los Angeles, Long Beach and Beverly Hills. The Los Angeles law, challenged on the basis of due process and equal protection guarantees, was punctured in a 1957 U.S. Supreme Court decision (*See last year's Annual Report, p. 88*) but in 1958 the court reversed itself in declaring that ignorance of the registration law was no excuse. Cleveland and Cincinnati ACLU affiliates have protested police actions in which ex-convicts who live or pass through the Cleveland suburb of Shaker Heights must register with authorities under a local ordinance; and whereby Cincinnati citizens have been stopped on the streets by police who demand their identity, their business, and information on past criminal records.

Vagrancy and Disorderly Conduct. The U.S. Supreme Court has agreed to review a unique case involving convictions for vagrancy, loitering and disorderly conduct against Sam Thompson of Louisville, who charges he was a victim of police harassment because he retained counsel to fight his first loitering and vagrancy arrest. The charge on this arrest was "filed away" under state law, permitting no further action. (*See last year's Annual Report, p. 91.*) In his third arrest, occurring within the space of approximately a week, Thompson was fined \$10 on each of two charges. This conviction is under appeal to the high court, for under Kentucky law, no conviction in Police Court may be reviewed in any state court if the fine is less than \$20. The petition filed with the U.S. Supreme Court declared that although Thompson was the victim of police "reprisal," . . . the denial of due process . . . is aggravated by Kentucky's failure to provide corrective judicial process. . . ."

The California affiliates strongly supported a bill repealing that state's antiquated vagrancy law. The bill was vetoed by the Governor, however. As the North Beach section of San Francisco has spawned its "beats," so it has spawned a rash of vagrancy cases brought by the police. The Northern California affiliate has defended a number of such prosecutions, including a barefoot girl, a youth who stood on a street corner talking to friends, a registered nurse being driven home from a late date, and an artist who was told he would be arrested every week until he got a haircut, a shave, a suit and a tie.

ACLU affiliates were active in a wide variety of cases in which due process was violated through a denial of counsel. The Cleveland Civil

Liberties Union has been advised to file an appeal in the case of a young woman convicted on vice charges solely on strength of her own admissions and without an attorney at her trial. A California court freed a defendant of petty theft, ruling that any person charged with a crime has a right to counsel whether he can pay for legal advice or not. The ACLU of Oregon filed a friend-of-the-court brief defending the rights of prisoners in the state penitentiary who charged that prison authorities were obstructing their rights to file court petitions by confiscating their legal papers, demanding censorship powers, and refusing access to research facilities. The ACLU supported a Texas man who claimed the right to act as his own counsel in a stolen property case, now before the U.S. Court of Appeals.

Reform. Two policy changes long championed by the Greater Philadelphia Branch of the Union finally were adopted when a directive was issued requiring police to notify the next of kin of the arrest of a prisoner and when a citizens' Police Review Board was created to hear complaints against members of the police force. The Board made its first recommendation for disciplinary action against an officer, which was accepted by the Police Commissioner, who still has review power. A number of ACLU complaints are still before the panel, which beset by a lack of funds, needs to hire a professional investigator and staff. Volunteer personnel is currently used. Persons arrested in Massachusetts for alleged misdemeanors and felonies are being informed of their rights in a new pamphlet prepared with the help of the CLUM, police, lawyers and state officials. And in the capital of the Bay State, newspapermen are now permitted by the police department to attend hearings on citizens' complaints against members of the force. "Evidence of progress" was also noted by the Ohio Civil Liberties Union, which praised a series of reforms in the processing of civilian complaints of police brutality in Columbus, Ohio. The new system insures privacy, right of counsel, and the availability of trial transcripts at their own expense to persons not directly involved.

Shoplifting. The ACLU made clear its objections to an anti-shoplifting law considered by the District of Columbia which grants store owners immunity in connection with the arrest of suspects. The Union said the proposal runs contrary to protections in the Fourth Amendment guaranteeing personal security by granting shopkeepers the power to arrest merely on the suspicion of a crime. In addition, the exemption from liability for assault and battery of the arrested person leaves a "gaping loophole" which merchants may use to inflict beatings, the Union warned. In other legislation, Oregon passed a law permitting arrest of shoplifters by policemen without a warrant, the governor of Indiana vetoed a bill which would have granted a merchant immunity

from libel in accusing an alleged shoplifter; and the Illinois Division of the ACLU is testing a new state law allowing merchants to detain persons on a "probable" suspicion of theft.

Other Cases. A California judge has ruled that police roadblocks are illegal because use of the public highways cannot be interrupted unless there is reasonable grounds to believe that the driver has committed a crime. The case involved a truck driver arrested for driving with a suspended license. The Pennsylvania Department of Revenue, answering the ACLU affiliate protest on roadblocks, replied that they "probably will not be repeated" as a way of catching up with license evaders. The New York Civil Liberties Union is testing police regulations requiring cabaret performers to be fingerprinted and licensed. Governor Caleb Boggs of Delaware heeded protests by the ACLU and other organizations and vetoed a bill which would have made whipping the mandatory punishment for convicted robbers. Existing state law grants judges authority to order 40 lashes (in addition to fine and imprisonment), but no judge has done so since 1952.

COURT PROCEEDINGS

U.S. Supreme Court Decisions. Among the several verdicts handed down by the court affecting criminal procedure, the one that evoked the most public comment was the opinion holding that the double jeopardy safeguard of the Fifth Amendment does not apply to a state prosecution for the same offense that had been tried in a federal court or vice versa. In one of two cases on which the issue was decided, the defendant, Alphonse Bartkus, was acquitted in a Federal District Court of bank robbery. Subsequently he was indicted by the state of Illinois and convicted on the same charge. In the second case, Louis Abbate and Michael Falcone were convicted in an Illinois court of conspiring to dynamite the property of another state (Mississippi) and then found guilty in a federal prosecution of conspiring to destroy parts of a federally operated and controlled communications system (telephone facilities). Facts used in both trials were identical. The basis of the majority opinion was the belief that in a country with both federal and state sovereignties, prosecution by one could not prevent a similar prosecution by the other. The dissenters in the Bartkus case warned that "the power to try a second time will be used, as have all similar procedures, to make scapegoats of helpless, political, religious, or racial minorities and those who differ, who do not conform and who resist tyranny."

Shortly after the high court decisions, Attorney General William P. Rogers urged federal law enforcement officials to act with self-restraint in keeping second prosecutions for the same crime down to a minimum.

Rogers said that government and state officials should cooperate on deciding the proper jurisdiction for prosecution that will best serve the public interest. His warning was praised by ACLU as a sign that the government would not seize on the ruling to seek multiple prosecutions "and thus increase hardships on the defendants."

In another decision followed closely by the ACLU, the Supreme Court ruled that federal narcotics authorities had "probable cause" when they arrested James Draper without a warrant on information provided by an informant. ACLU attorneys had argued that Draper's rights under the Fourth Amendment had been abridged because "reasonable grounds" had not existed to make the arrest without a warrant. Federal agents did not act after the commission of a crime, but before, said the brief, and "arrest on suspicion alone . . . cannot be sustained." But the majority opinion held that since the government's information came from a previously reliable source, arresting officers met the test of "probable cause" required by the Fourth Amendment before a warrant for arrest can be issued.

The so-called Jencks Act, passed by Congress in 1957 to restrict the application of the court's ruling in the case of Clinton E. Jencks (*See last year's Annual Report, p. 90 and 1956-57 Annual Report, p. 9*), was broadly upheld by a closely divided tribunal. The ACLU had expressed several reservations regarding the legislation. The court said that Congress had authorized the making of statements in possession of the government available to the defense only under the condition that they are written statements made by a government witness to a government agent and signed or approved by him, or stenographically or authorized recorded statements which are a "substantially verbatim recital" recorded at the same time the statement was given to a federal agent. Since such statements are only permissible for the purpose of impeaching the witness, they must be produced only if they relate to the subject matter of the witness' testimony. When it is doubtful that the statements must be made available under the statute, the court advised an *in camera* determination by the trial judge.

Fair Trial. The ACLU asked the U.S. Supreme Court to rule that under the Fourteenth Amendment one of the attributes of a fair trial is that the defendant be convicted on the same statute that he was originally charged with violating. The unusual case involved an Ohio couple whose 11-year-old daughter was a ward of the Juvenile Court because of an earlier charge of neglect. When the couple falsified her age to make possible her marriage in another state the parents were convicted of tending to cause the delinquency of their daughter. On appeal, however, the Ohio Supreme Court said the parents could not be convicted on the statute used as the basis for trial in the lower court. Instead, the state Supreme Court upheld the conviction on other

grounds: that the child's marriage probably would either make her a habitual truant from school or else cause her to impair the morals of her classmates if she did attend school. The Supreme Court refused to review the case.

The ACLU has intervened in two convictions for murder marred by due process violations. In Maine, the state Supreme Court will consider an appeal from a refusal by a lower court to grant a new trial to Paul Dwyer, who has just been released on parole after 22 years in prison on a charge for which the local deputy sheriff was himself convicted a year later. The police official was released on habeas corpus after serving 12 years. Dwyer contends that his plea of guilty was made under a threat by the deputy sheriff that he would kill Dwyer's mother. He also charges that his rights to a fair trial were denied because his court-appointed defense counsel knew of the coercion and yet did not disclose them to the court after Dwyer suddenly reversed his plea of innocence. Dwyer further claimed that his rights were violated when he was held incommunicado. The Union also asked the U.S. Supreme Court to review the murder conviction of James Morris Fletcher on the grounds that the due process clause of the Fourteenth Amendment guarantees defendants in state courts the right to fair, impartial juries. Union-supported counsel for Fletcher contends that he was not given a fair trial because the trial judge refused the defense permission to challenge two jurors: one was the son-in-law of the chief of county detectives who was a key witness in the case; the other was related to the slain person. The Fletcher case goes to the high court from the Pennsylvania Supreme Court, which had denied a writ of habeas corpus sought by the ACLU. The U.S. Court of Appeals in Washington, D.C., meanwhile, extended the restrictions against illegally obtained evidence in federal trials by barring such evidence when obtained by state law enforcement officers. This prohibition had formerly applied only to federal agents.

The alleged exclusion of minority groups from juries figured in an order for a new trial ordered by a U.S. Court of Appeals in the case of a Mississippi Negro sentenced to death and also in Chicago, where court officials denied a charge by an ACLU attorney that prejudice was apparently at work in keeping Puerto Ricans off juries. In two actions by ACLU affiliates, the Connecticut CLU hailed the elimination of a law requiring a five-year sentence for users of narcotics and the ACLU of Southern California, in a major policy statement, branded the death penalty as cruel and unusual punishment contrary to protections of the Eighth Amendment. The national ACLU Board considered the issue of capital punishment and concluded that though at this time it was not a civil liberties issue, "in particular cases the character of the punishment combined with the surrounding circumstances of the case, might raise a civil liberties issue." The discriminatory manner in which capital

punishment is meted out, as against Negroes in the South, is of civil liberties concern.

Right to Counsel. The ACLU endorsed, with two reservations, a "public defender" bill giving legal representation to indigent clients facing criminal prosecution in federal courts. The bill passed the Senate but died in the House Judiciary Committee. The reservations expressed by the Union concerned the inadequacy of payment for the court-appointed lawyer and the problem of preserving the necessary independence of the public defender from the prosecuting agency and the judiciary.

The lack of effective legal advice was cited by a Federal District Court in Nebraska in granting a writ of habeas corpus to a young part Sioux Indian convicted of murder. The case was actively pursued by a volunteer committee of lawyers and laymen who finally won their case when Loyd Grandsinger was three weeks away from the electric chair. The federal court granted the writ on the grounds of ineffective assistance of defense counsel at Grandsinger's murder trial, and the admission by the attorney that he had tampered with a key piece of evidence. This "perverted (the trial) into a virtual legal lynching," said the court. In another dramatic case, Lino Urrutia, who learned to read and write in prison schools, won reversal of a 1934 conviction for passing counterfeit money on the grounds that he was not informed of his right to a court-appointed attorney.

Rights of Juveniles. The ACLU of Pennsylvania proposed several major changes in the state's Juvenile Court Act, but thus far the chief success of the proposals has been scored on the local court level in Philadelphia, where most of the suggested reforms have been accepted in principle. The major recommendation of the affiliate provides that each juvenile who denies the accusations against him has the right to full disclosure of evidence, confrontation and cross-examination of witnesses and application of the rules of evidence prevailing in other Pennsylvania courts. At the basis of the denial of due process for juveniles, said the affiliate, is the practice whereby neither a child nor his lawyer are permitted to see a probation officer's report which may recommend disposition of a case to a judge on the basis of hearsay evidence and simple gossip. The ACLU of Pennsylvania, as well as the ACLU of Southern California, have been following closely the enforcement of local curfew ordinances. The former reported a marked improvement in the fairness of procedures following conferences with court officials, but the Southern California affiliate is supporting an appeal to the U.S. Supreme Court of the Los Angeles curfew law on the grounds that it is an unreasonable restriction on children and parents and is arbitrarily enforced "only against members of minority races."

Practices similar to those protested by the ACLU of Pennsylvania

have been criticized by the Kentucky Civil Liberties Union in a friend-of-the-court brief filed on behalf of 16-year-old Richard Goben, convicted in a robbery case. The Kentucky affiliate said he has been deprived of at least four constitutional rights under laws governing juveniles: denial of the right to confront witnesses, to a public trial, to bail, and the privilege against self-incrimination. The brief also challenged the right of the state's Welfare Department to transfer Goben for trial because the Department lacked "appropriate facilities." The transfer was made despite a court order remanding Goben to the Department for custody.

Pre-Trial Publicity. Federal District Court Judge Louis E. Goodman sparked a debate over the rights and responsibilities of a free press when he declared a mistrial in San Francisco solely on the basis of what newspapers had printed. The mistrial was declared in the case of John and Sylvia Powell and Julian Schuman, who were charged with sedition in connection with the publication of the *China Monthly Review*, a Shanghai magazine which had published an article charging that the U.S. had used germ warfare in the Korean War. (See also p. 49.) Judge Goodman's action followed publication by newspapers of testimony that had been given in the absence of the jury to enable the court to decide its admissibility. In ruling that it was not admissible, Judge Goodman commented that such evidence was barred from the sedition trial but would be permitted in a treason trial because of broader rules of evidence. San Francisco papers took up the judge's statement that the testimony in question was *prima facie* evidence of treason under such headlines as "Guilty of Treason," and "Judge Flays Defendants." Newspapers defended themselves against the court's accusations by saying they had printed only what the judge had said. They rejected his suggestion that the press be barred from court arguments where the jury is excused. But Judge Goodman charged that the newspaper stories had made a fair trial impossible. "Freedom of the press," he wrote, "is not for the benefit of the press but for the benefit of the people."

Reporter's Privilege. After 15 months of study, the ACLU adopted a policy statement opposing all attempts at legislating a compromise between conflicting civil liberties principles involved in freedom of the press and an individual's right to know his accuser. The debate surrounding attempts in Congress and various state legislatures to grant reporters complete or limited immunity from disclosing sources of information was prompted by the contempt conviction of New York *Herald Tribune* columnist Marie Torre. Miss Torre was ordered to reveal the name of a CBS television executive to whom she attributed derogatory remarks about singer Judy Garland. Miss Garland said she needed to know the identity of Miss Torre's informant in connection with her civil libel suit against the network. Miss Torre refused, claiming the free press protection of the reporter's privilege not to disclose sources of

information, and served 10 days in jail on a contempt conviction upheld by the U.S. Court of Appeals. The unanimous opinion, written by Judge Potter Stewart before he was named to the U.S. Supreme Court, declared: "The concept that it is the duty of a witness to testify in a court of law has roots fully as deep in our history as does the guarantee of a free press. . . . We do not hesitate to conclude that (the freedom of the press) must give place under the Constitution to a paramount public interest in the fair administration of justice."

The ACLU summed up the civil liberties dilemma this way: "On one hand there is the vital public right, implied by the First Amendment, to the freest and fullest flow of public information. . . . On the other hand, there is the vital public and private right to the unhampered administration of justice, including . . . the right of a litigant or defendant to compel the production of relevant testimony. . . . (The Union) believes, in short, in the value of both principles, but it does not believe it is possible to combine them into a common formula by legislative action." A second basis on which the ACLU opposed legislation on the subject was the problem of accurate definitions, who or what constituted a "source," a "reporter," or "national security."

TV, Photography in Courtrooms. Representatives of the American Bar Association, newspapers and television stations are studying the feasibility of a scientific study to determine whether the presence of radio and photographic equipment affects the fairness of a trial. At present, the ABA opposes photography and broadcasting of trials on the grounds that resulting visual and psychological distractions would obstruct the judicial process. The Oklahoma Court of Criminal Appeals, however, took a firm opposing estimate of the impact of electronics in a courtroom in upholding the conviction of a man whose trial for burglary had been televised. The state's highest criminal court held that TV was an adjunct of the press, and that both are constitutionally entitled to report courtroom proceedings. In addition, the court said that opposition to TV was "a baseless boogey constructed out of pure speculation." The opinion said also that the defendant's right to privacy had not been invaded as a result of the televised trial since the defendant had already "emerged from seclusion" with his apprehension for the crime. A further gain for radio and TV reporters was registered in Los Angeles where a Municipal Court judge permitted televising of a pre-trial hearing of a widely-publicized murder charge under carefully restricted ground rules. The judge said he would not permit TV coverage of the trial itself. The Florida Supreme Court upheld a lower court conviction for contempt against two TV photographers who took pictures of an accused man against his wishes and in defiance of the judge's order banning photographs.

IV. INTERNATIONAL CIVIL LIBERTIES

The participation of the United States in creating international law for civil liberties and human rights remains blocked by the continuing opposition in the U.S. Senate to the ratification of treaties for that purpose. Although the so-called Bricker amendment to the Constitution is no longer an active issue, hostility remains to using treaties as a means of strengthening civil liberties, to implied international concern with American domestic law, and to any invasion of states' rights.

It was expected that a test of sentiment would arise with the announced intention of the State Department to submit the International Labor Organization treaty against forced labor. That treaty was submitted in the spring of 1959 after a long delay, but with comment by both State and Labor Departments indicating that its provisions are matters for state, not federal action. So ratification was not possible.

In one other respect a heartening position was taken by the Administration, speaking through the President, Vice-President and State Department, in favor of repealing the so-called Connolly amendment to U.S. ratification of the treaty establishing the International Court of Justice. That amendment practically makes the United States the sole judge of what cases the court can hear involving the United States, thus negating the basic principle of its jurisdiction over legal contests arising between member states. A proposed repeal was introduced by Senator Humphrey but no action was taken on it.

At the United Nations the U.S. delegation showed no change from its previous position against covenants or treaties as instruments for advancing civil and human rights. No advances were made by the United Nations in the field of human rights beyond studies, reports, regional seminars and advisory services to governments. All complaints of violations of rights wait for action on the completion of the long-debated human rights covenants.

U.S. TERRITORIES

Puerto Rico. While Puerto Rico is an autonomous Commonwealth, not a territory of the U.S., laws of Congress apply to it as to all other parts of the United States. A bill was introduced in Congress by the resident commissioner of Puerto Rico to amend the law fixing its relation to the United States by clarifying many provisions and permitting Puerto Rico greater autonomy. No action was taken.

A survey of civil rights under the Puerto Rican constitution and laws, under way since 1956, was completed in August 1959 by the

commission appointed by Governor Luis Muñoz Marin at the suggestion of Roger Baldwin, who had been invited by the governor to serve as adviser. The unanimous 168-page report of seven lawyers, based on extensive research by a University of Puerto Rico team, was warmly received, although critical of many phases of law and practice. The governor announced his intention of adopting several recommendations.

Virgin Islands. The Organic Act Commission appointed by the legislature of the Virgin Islands continued to press for a resident commissioner in Washington and an elective governor, though no action was taken in Congress. The Department of the Interior has not yet approved the changes, and without its approval Congressional action is unlikely. Minor amendments to the Organic Act were adopted.

A proposal to create town governments in the islands to take over some functions now exercised solely by the legislature was agreed to in form, and the Union has assumed the obligation of drafting it.

Pacific Islands. The only issue of civil liberties that arose in Pacific territories (Guam, Samoa, and the Trust Territory) was the exclusion of visitors by the Navy from Guam. Efforts were made in several cases to overcome Navy refusals by suits in court, and in each case they were mooted by permitting the applicant to enter. The Union was asked to aid by intervention with officials in Washington, and is so doing. It should be noted that Guam, like the Virgin Islands, has been seeking to get representation in Washington through a Resident Commissioner. In that case, too, approval by the Interior Department is essential.

Okinawa. Representations to the Defense Department concerning civil rights and self-government in the Ryuku islands (of which Okinawa is the largest) resulted in an invitation to Roger Baldwin to visit them in the course of a tour around the world in the summer of 1959. He stopped off for three days as the guest of the high commissioner, General Donald P. Booth, who afforded him every opportunity to meet and hear Okinawan complaints and desires. The Okinawans chiefly want greater control of their executive and judicial branches, more contact with Japan and relaxation of security measures. Opposition to the military base, with a universal desire for a quite impractical prompt return to Japan, was freely voiced.

Roger Baldwin drafted a series of recommendations to the Defense Department and the High Commissioner, who expressed his intention of encouraging the fullest possible self-government as rapidly as the Okinawans could take over. Some policy decisions, however, will obviously have to be made in Washington, since the issue of self-government and civil rights in Okinawa has agitated Japanese opinion for some years, and affects relations between the U.S. and Japan.

STRUCTURE AND PERSONNEL

MEMBERSHIP

A member of the Union shall be a person or organization paying dues of two dollars or more annually to the national American Civil Liberties Union or one of its affiliates. The National Committee is elected by the members of the Union, and the Board of Directors is elected by the members of the Board of Directors, the National Committee, and the members of the boards of affiliates.

Corporation Officers

Chairman—Ernest Angell

Secretary—Dorothy Kenyon

Assistant Secretary—Rowland Watts

Treasurer—B. W. Huebsch

Assistant Treasurers—

John F. Finerty, Patrick Murphy Malin,

Alan Reitman, Rowland Watts

Executive Director—Patrick Murphy Malin

Personnel Changes

Board of Directors. One of the members listed in the 1957-58 *Annual Report*, Mr. Jessup, has retired from the Board. The board membership is now 34 of the 35 authorized in the Constitution.

National Committee. The terms of four members listed in the 1957-58 *Annual Report*, Bishop James Chamberlain Baker, Rev. Harry Emerson Fosdick, John Nevin Sayre and Joseph Schlossberg expired. Seven new members were elected, J. Garner Anthony, Prof. Clarence E. Ayres, Victor Fischer, Prof. Wesley H. Maurer, Sylvan Meyer, Jose Trias-Monge, John B. Orr, Jr. and Marion A. Wright.

The national committee now numbers 78 out of the maximum 80 provided in the Constitution.

Staff. There have been several changes since the 1957-58 *Annual Report* was published. Irving Ferman, Washington director, resigned in June, 1959 to become the executive vice-chairman of the President's Committee on Government Contracts. Jeffrey E. Fuller, assistant director, resigned in September, 1959 to join the Reply-O Letter Company. Lawrence Speiser was named Washington director and Mrs. Marie Runyon, membership secretary, was appointed membership director. Other internal changes are the naming of Alan Reitman, assistant director, as associate director, Rowland Watts and Melvin L. Wulf, staff counsel and assistant staff counsel, as legal director and assistant legal director, Miss Lillian Ford and Mrs. Penelope Wright as executive assistants, and Jeffrey E. Fuller as a staff associate.

ACLU AFFILIATES

Arizona: ARIZONA CIVIL LIBERTIES UNION—806 East Camelback Road, Phoenix. Eugene R. Michaud, President (and Chairman, Northern Area, Phoenix), Cornelius Steelink, Vice-President (and Chairman, Southern Area, Tucson).

California: ACLU OF NORTHERN CALIFORNIA*—503 Market Street, San Francisco 5. John Henry Merryman, Chairman. Ernest Besig, Director, Chapter in Marin County.

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Colorado: COLORADO BRANCH, ACLU†—1452 Pennsylvania Street, Denver 3. Edward H. Sherman, Chairman. Harold V. Knight, Executive Director. Chapter in Boulder.

Connecticut: CONNECTICUT CIVIL LIBERTIES UNION†—105 Kohary Drive, New Haven 15. Ralph S. Brown, Jr., Chairman. Mrs. Norman J. Cohen, Secretary. Chapters in Fairfield County, Hartford and New Haven.

Florida: FLORIDA CIVIL LIBERTIES UNION—Burton T. Wilson, Chairman. Mrs. Clarence Rainwater, Box 88, Miami 56, Secretary. Chapter in Tampa-St. Petersburg.

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Indiana: INDIANA CIVIL LIBERTIES UNION†—239 East Ohio Street, Indianapolis 4. Sigmund Beck, Chairman. John Preston Ward, Executive Director. Chapters in Bloomington, Gary, Indianapolis, Lafayette and South Bend.

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Kentucky: KENTUCKY CIVIL LIBERTIES UNION—Patrick S. Kirwan, Chairman. Arthur S. Kling, 1917 Maplewood Place, Louisville 5, Secretary.

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Maryland: MARYLAND BRANCH, ACLU†—Dr. H. Bentley Glass, President. Jack L. Levin, Chairman, Executive Board. Mrs. Fred E. Weisgal, 5740 Cross Country Boulevard, Baltimore 9, Secretary.

Massachusetts: CIVIL LIBERTIES UNION OF MASSACHUSETTS*—41 Mount Vernon Street, Boston 8. Rev. Gardiner M. Day, Chairman. Luther K. Macnair, Executive Director. Chapters in Hampden, Hampshire, Worcester Counties.

* Indicates a full-time office is maintained.

† Part-time office maintained.

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- New York:* NEW YORK CIVIL LIBERTIES UNION*—170 Fifth Avenue, New York 10. Charles A. Siepmann, Chairman. George E. Rundquist, Executive Director. Chapter in Queens. NIAGARA FRONTIER (BUFFALO) BRANCH, ACLU—Robert North, Jr., 16 St. James Place, Buffalo 22, Chairman.
- Ohio:* OHIO CIVIL LIBERTIES UNION*—710 Ninth Chester Bldg., Cleveland 14. Sidney D. Josephs, Chairman. Mrs. Vivian J. Donaldson, Executive Secretary. Chapters in Akron, Cincinnati, Cleveland, Columbus, Dayton, Oberlin, Toledo, Yellow Springs and Youngstown.
- Oregon:* ACLU OF OREGON—P.O. Box 774, Portland 7. Charles Davis, Chairman. Jonathan U. Newman, Secretary.
- Pennsylvania:* ACLU OF PENNSYLVANIA*—260 South 15 Street, Philadelphia 2. Alexander H. Frey, President. Spencer Coxe, Executive Director. Chapters in Pittsburgh† (605 Morewood Ave.), Harrisburg, Lancaster County, and York County. GREATER PHILADELPHIA BRANCH, ACLU*—260 South 15 Street, Philadelphia 2. Henry W. Sawyer, III, President. Spencer Coxe, Executive Director. Chapter in Camden, N.J.
- Rhode Island:* RHODE ISLAND AFFILIATE, ACLU. Milton Stanzler, 1009 Hospital Trust Building, Providence 3, Chairman.
- Utah:* ACLU OF UTAH—Adam M. Duncan, 1935 South Main Street, Salt Lake City 15, Chairman.
- Washington:* ACLU OF WASHINGTON†—United Pacific Building, Seattle 4. Solie M. Ringold, Chairman. David J. Smith, Executive Secretary.
- Wisconsin:* WISCONSIN CIVIL LIBERTIES UNION—408 West Gorham Street, Madison 3. Morris H. Rubin, Chairman. Mrs. Esther Kaplan, Executive Secretary.

* Indicates a full-time office is maintained.

† Part-time office maintained.

STATE CORRESPONDENTS

(In states and territories where the Union does not have organized affiliates, these correspondents assist the ACLU by securing information and giving advice on local matters. They do not represent the Union officially.)

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Virgin Islands—George H. T. Dudley, Box 117, Charlotte Amalie, St. Thomas

MEMBERSHIP AND FINANCES

Fiscal Year February 1, 1958, through January 31, 1959

The membership enrollment of the national ACLU and its integrated affiliates grew from about 39,900 at the start of the fiscal year to almost 41,700 at the end, a net increase of close to five per cent. Almost six thousand new members were signed up, but over 4,000 had to be dropped for non-payment of dues, etc.

The ACLU of Washington State, which re-integrated its membership with the national organization's in February 1959, ended the 1958-59 fiscal year with an enrollment of about 900, two hundred of whom were not then on the national roster. The Northern California ACLU, which maintains its membership separately, had about 4,000 members of its own, many of whom belonged individually to the national organization. Counting Washington's additional 200 and allowing for some overlap in Northern California, the Union on January 31, 1959, had altogether about 45,000 members.

Membership dues and contributions received by the national ACLU and its integrated affiliates totalled about \$390,500, some \$30,000 and 8% ahead of the previous fiscal year. With \$7,500 from other sources, the year's current income added up to \$398,000, but even this record figure did not match the cost of the year's operations, almost \$410,500. The year's \$12,500 current-income deficit would not have occurred if contributions received in January 1959, the last month of the fiscal year, had not fallen some \$14,000 below expectations. (When this drop was called to the attention of the Union's members in the February 1959 *Civil Liberties*, their response was such that the \$14,000 sag was made up by the end of April.)

Bequests totalling almost \$7,800 were received from the estates of former members and added to the ACLU's reserves. However, because of the \$12,500 current-account deficit and the writing-off of a previously-carried \$3,200 asset, the Union's Net Worth declined from \$74,100 at the start of the twelve months to \$66,300 at the end.

The average member contributed \$9.37 during the year. About 15% of the Union's members gave less than \$5, 50% between \$5 and \$9, 30% between \$10 and \$24, 3% between \$25 and \$49, 1% between \$50 and \$99, and 1% \$100 and up. Members contributing \$200 or more during the 1958-59 fiscal year were:

William Prescott Allen, Texas; Amalgamated Clothing Workers of America, New York; Mr. and Mrs. Ralph Atkinson, California; Mrs. Evelyn Preston Baldwin, New Jersey; Howard K. Beale, Sr., Wisconsin; Mrs. Helen Beardsley, California; Mr. and Mrs. William Benesch, Pennsylvania; William Benton, New York; Mr. and Mrs. Edgar Bernhard, Illinois; Mrs. Esther Smith Byrne, California; Sidney F. Brody, California; Miss Julia C. Bryant, Connecticut; F. G. Burg,

California; Andrew H. Burnett, California; Montague Casper, New York; Mr. and Mrs. Roger S. Clapp, Massachusetts; Miss Fanny Travis Cochran, Pennsylvania; Edward T. Cone, New Jersey; Professor and Mrs. Albert S. Coolidge, Massachusetts; Mr. and Mrs. David Cooper, Virginia; Mr. and Mrs. John Cowles, Jr., Minnesota; Stephen T. Crary, Rhode Island; Mrs. Margaret DeSilver, New York; Mrs. Francis R. Dewing, Massachusetts; Robert T. Drake, Illinois; Joseph L. Eichler, California; Dr. Robert H. Ellis, Oregon; Edward J. Ennis, New York; W. R. Everett, Minnesota; Henry G. Ferguson, District of Columbia; Walter T. Fisher, Illinois; Mrs. Stanton A. Friedberg, Illinois; Harvey Furgatch, California; Miss Gloria Gartz, California; Herbert G. Graetz, Massachusetts; Richard Grumbacher, Maryland; Mr. and Mrs. Wilbur G. Hallauer, Washington; Mr. and Mrs. Gilbert Harrison, District of Columbia; Thomas B. Harvey, Pennsylvania; Dr. and Mrs. George H. Hogle, California; International Ladies' Garment Workers' Union, New York; Mrs. Sophia Yarnall Jacobs, New York; J. M. Kaplan, New York; Mr. and Mrs. Albert A. Kaufman, New Jersey; W. S. Kiskadden, California; Mrs. William Korn (for the Mayer Family), New York; Dr. Austin Lamont, Pennsylvania; Robert Maxwell Lauer, Delaware; Carter Lee, District of Columbia; Hon. Herbert H. Lehman, New York; Alan Jay Lerner, New York; Mrs. Salim Lewis, New York; Mrs. Sanford Lowengart, California; Mr. and Mrs. Patrick Murphy Malin, New York; Arnold H. Maremont, Illinois; Mrs. May R. Melcher, Michigan; Merle H. Miller, Indiana; Sybil Jane Moore, California; Seniel Ostrow, California; Mrs. Gertrude Pascal, New York; Dr. Linus Pauling, Jr., Hawaii; Frank C. Pierson, Pennsylvania; Miss Annie J. Pitou, California; Dr. Dallas Pratt, New York; George D. Pratt, Jr., Connecticut; H. Oliver Rea, New York; Mr. and Mrs. Chester Rick, New York; Mrs. Alice F. Schott, California; A. Joseph Seltzer, Michigan; Henry W. Shelton, California; Mrs. Gratia Erickson Short, California; Mr. and Mrs. Herbert Sieck, Illinois; Mrs. Eleanor Lloyd Smith, California; Lloyd M. Smith, California; John Stahl, California; Mrs. Charles S. Stein, Jr., California; Mr. and Mrs. Arthur I. Stephens, Illinois; J. David Stern, New York; Miss Ann R. Stokes, Pennsylvania; Mr. and Mrs. Lee Thomas, Kentucky; Miss Anne L. Thorp, Massachusetts; George B. Thorp, New York; Sidney R. Troxell, California; John B. Turner, New York; Mr. and Mrs. Frank Untermeyer, Illinois; Philip Wain, California; Duane E. Wilder, Pennsylvania; Harold Willens, California; Miss Mary C. Wing, New York; Mrs. Betty Zukor, California. Two anonymous gifts of \$500, one of \$450, two of \$300, one of \$250, one of \$245, and one of \$200, were also received.

In addition to its regular fiscal operations, the Union continued to supervise the Roger N. Baldwin-ACLU Escrow Account, administered by the Fiduciary Trust Company. During 1958-59 the Account's book-value Net Worth declined from about \$37,700 to \$35,600, but the market value of its securities rose from approximately \$53,800 to \$66,600.

1958-59 MEMBERSHIP ENROLLMENT

NUMBER OF MEMBERS FEBRUARY 1, 1958	39,871
New members enrolled during fiscal year	5,961
Dropped: deceased, resigned, delinquent, etc.	4,145
<i>Net increase during fiscal year</i>	<u>1,816</u>
NUMBER OF MEMBERS JANUARY 31, 1959	41,687

1958-59 FINANCIAL REPORT

INCOME	Number	Amount
New members' initial dues payments	5,961	\$39,856.00
Membership renewals	28,196	290,939.00
Special Funds contributions	7,171	59,689.62
TOTAL, MEMBERSHIP INCOME	41,328	\$390,484.62

Executive Director's honorariums	880.83
Sale of pamphlets	1,552.60
From ACLU-Roger N. Baldwin Escrow Account	3,600.00

TOTAL, REGULAR INCOME \$396,518.05

Extraordinary contributions earmarked for national office Legal Expansion Fund	1,555.00
--	----------

TOTAL, CURRENT INCOME \$398,073.05

Bequests from the estates of former members:

Evelyn T. D. Morley	\$6,974.60
Ella M. Kellogg	500.00
Louis Jacob Kutcher	250.00
Frances W. Emerson	50.00
John Moriarty	20.00
	7,794.60

TOTAL, ALL INCOME \$405,867.65

EXPENDITURES

TRANSFERS TO INTEGRATED AFFILIATES from joint membership income, i.e., all contributions received from members in each affiliate's area, except those earmarked for specific national or local purpose.

	<i>Affiliate's Net Worth 1/31/59</i>	<i>Affiliate's additional local income</i>	TRANSFERRED from joint memb. income
Southern California	\$9,500.00	\$6,764.56	\$37,976.29
N.Y.C.L.U.	14,998.45	11,602.77	25,170.93
Illinois Division	466.55	6,271.00	21,012.87
Penna. & Phila. Brs.	554.02	1,184.50	17,332.95
C.L.U. of Massachusetts	3,766.44	601.16	15,038.94
Ohio C.L.U.	(5.45)	26.71	7,894.40
Indiana C.L.U.	(1,861.01)	462.45	4,171.50
Minnesota Branch	1,949.47	10.00	4,068.00
Colorado Branch	(161.65)	836.65	2,824.60
Connecticut C.L.U.	593.87	13.00	2,321.10
Louisiana C.L.U.	950.05	305.00	1,523.50
Maryland Branch	279.20	50.00	1,522.20
St. Louis Committee	576.25	none	1,179.26
Greater Miami Branch	1,141.44	999.25	1,163.40
Detroit Branch	336.69	502.00	1,003.71
Wisconsin C.L.U.	1,680.17	none	965.00
ACLU of Oregon	639.59	52.50	847.70
Iowa C.L.U.	824.42	none	659.10
Kentucky C.L.U.	703.32	none	607.40
Niagara Br. (Buffalo) ..	129.42	none	307.60
Lansing C.L.U.	237.03	none	157.90
			\$147,748.35

GENERAL ADMINISTRATION

SALARIES, eight executives (including three part-time)	\$53,825.00
SALARIES, five executive assistants	15,191.96
SALARIES, sixteen clerical employees (one part-time) ...	55,686.65

OTHER ADMINISTRATIVE EXPENSES

Postage	\$10,874.32
Equipment, supplies, services, etc.	7,699.53
Rent	7,200.00
Payroll taxes and insurance	4,772.52
Stationery	3,678.38
Telephone and telegraph	3,242.64
Travel—Executive Director and Staff Counsel	2,898.06
Lettershop	2,214.39
Audit	2,000.00
Books, subscriptions, clippings, etc.	821.57
Bank charges	815.33
Board meetings	596.79
	\$46,813.53

WASHINGTON OFFICE

Salaries, director and secretary	\$13,754.00
Administrative expenses	6,662.56
	\$20,416.56

LITIGATION*

Barenblatt Un-American Activities Committee test case	\$2,610.62
Worthy v. State Department passport case	975.99
Wilkinson Un-American Activities Committee test case	720.95
Greene v. Defense Department security case	405.60
Ostrosky v. Maryland Security Board	300.00
California church loyalty oath case	285.84
Patterson Oregon Bar admission case	255.97
Eibel (Polish seaman) right to hearing case	186.55
Draper grounds for arrest case	186.43
Martinez-Escalano deportation case	158.95
Rockwell Kent-Briehl v. State Department passport case	155.20
D.C. v. Dallas Williams due process case	127.33
Trop v. State Department loss of citizenship case	62.48
Gans v. Ohio marriage of minor due process case	62.00
Ullner v. Ohio Sunday Blue Law case	56.37
Forty-three cases under \$50	455.22
	\$7,005.50

LAW BOOKS

Six hundred volumes, <i>U.S. Federal Reporter</i> , <i>Federal Digest</i> , and <i>Federal Supplement</i>	\$1,500.00
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* Full details on these cases will be found elsewhere in this Report. It should be noted that expenditures indicated above cover only out-of-pocket items such as printing of briefs, travel, long distance phone calls, etc. The Union's cooperating attorneys work without fees.

EDUCATION: PAMPHLETS, ETC.

To National Civil Liberties Clearing House budget	1,000.00
Membership survey questionnaire	524.00
Pamphlet on civil liberties in labor unions	489.50
Pamphlet on A.A.U.'s 1953 "Rights and Responsibilities of Universities and Faculties"	303.50
Public Relations Committee expenditures	174.22
"Private Group Censorship and the N.O.D.L."	160.00
"Academic Freedom and Civil Liberties of Students" ...	157.00
Reprint of The Bill of Rights folder	134.50
Report on 85th Congress	87.05
"Scrutiny of Professors"	82.34
"Feelings Run Strong on Immigration"	50.00
"The School Bus Question"	50.00
Miscellaneous reprints, etc.	73.79
	\$3,399.40

FUNCTIONAL COMMITTEES: MEETING EXPENSES, ETC.

Indian Civil Rights Committee	\$405.24
Academic Freedom Committee	366.12
Labor Civil Rights Committee	288.09
Race Relations and Equality Committee	194.28
Alien Civil Rights Committee	104.50
Five committees, under \$50	91.28
	\$1,695.23

INTERNATIONAL CIVIL LIBERTIES

Committee meetings, Mr. Baldwin's travel, etc.	\$1,092.06
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ARTHUR GARFIELD HAYS CIVIL LIBERTIES MEMORIAL

Contribution to Hays program at N.Y.U. Law School ...	\$1,000.00
Expenses incurred: fund-raising, etc.	218.92
	\$1,218.92

ACLU CORPORATION AND AFFILIATE OPERATIONS

1958 Biennial Conference, New York, N.Y.	\$2,580.38
Joint Finance Committee, Nominating Committee, etc.	1,474.73
National office executives' affiliate travel	378.79
	\$4,433.90

SEPARABLE MEMBERSHIP SERVICES

New membership recruitment, total expenditures	\$20,402.45
1957-58 Annual Report, printing costs	8,588.00
To Southern California ACLU, promotional allowance (10% of 1958-59 fiscal year's joint income)	6,329.37
Civil Liberties, printing costs	6,099.86
Special Funds appeals, total expenditures	4,967.28
Separable membership maintenance costs	4,023.32
	\$50,410.28

EXPENDITURES, GRAND TOTAL\$410,437.34

TOTAL, CURRENT INCOME 398,073.05

DEFICIT, 1958-59 CURRENT ACCOUNT (12,364.29)

BALANCE SHEET

as of January 31, 1959

ASSETS

Cash	\$53,595.69
Accounts receivable:	
Airlines deposit	425.00
Overpayments to affiliates, current account	5,364.32
Loans receivable:	
Indiana Civil Liberties Union	1,126.23
Ohio Civil Liberties Union	1,050.00
Illinois Division	800.00
Greater Philadelphia Branch	448.00
Prepaid expenses due in 1959-60 fiscal year:	
Bail, Wilkinson case	1,000.00
Advance, on 38th Annual Report	5,500.00

11 TOTAL ASSETS \$69,309.24

LIABILITIES

Unexpended earmarked funds:	
Mr. Baldwin's drawing account	\$2.60
Staff savings bond purchases	107.85
Received in advance from Baldwin salary account	600.00
Accounts payable	253.12
Withholding taxes payable	2,018.62

TOTAL LIABILITIES \$2,982.19

NET WORTH, February 1, 1958 \$74,117.55

LESS 1958-59 deficit, expenditures over current income (12,364.29)

LESS cancellation of this portion of Marshall Trust item
 listed as receivable in 1957-58 Annual Report (3,220.81)

PLUS bequests received during 1958-59 7,794.60

NET WORTH AS OF JANUARY 31, 1959 \$66,327.05

TOTAL, LIABILITIES AND NET WORTH \$69,309.24

Roger N. Baldwin-ACLU Escrow Account

NET WORTH, February 1, 1958 \$37,742.66

Income from investments, net 2,438.47

Paid to ACLU for Mr. Baldwin's part-time salary 3,600.00

EXCESS, expenditures over income (\$1,161.53)

NET WORTH, book value, * January 31, 1959 \$35,581.13

* Market value of securities in Account on January 31, 1959: \$66,577.00.

Certificate

In our opinion, the attached financial statements present fairly the financial position of American Civil Liberties Union, Inc., and of the Roger N. Baldwin-ACLU Escrow Account at January 31, 1959, and the results of their respective operations for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

APFEL AND ENGLANDER
Certified Public Accountants

A copy of the complete auditor's report will be sent on loan to any member on request. The ACLU's financial and accounting methods are endorsed by the National Information Bureau, 205 East 42nd Street, New York 17, N.Y., a private agency organized to help maintain sound standards in philanthropy and to provide contributors with information and advice.

Contributions to the American Civil Liberties Union are not deductible for income tax purposes, since the Treasury Department has held that a "substantial part" of the Union's activities is directed toward influencing legislation. The ACLU itself pays no taxes other than Social Security, Old Age Benefit and Workmen's Compensation levies in connection with its employees' salaries.

ACLU PUBLICATIONS AVAILABLE — DECEMBER 1959

You may order by number from ACLU at 170 Fifth Avenue, New York 10, N.Y. All prices are postpaid. Quantity price schedule, in general: 25 or more copies — deduct 20% from single copy price; 100 or more — deduct 40%. Single copies of any available pamphlets will be mailed free to contributing members (dues of \$5 and up) on request. Please indicate membership category when ordering.

A-59. ACLU 1958-59 Annual Report, WORK AHEAD IN HOPE. 112 pp. 75¢

A-58. 1957-58 Annual Report, CONSTITUTIONAL LIBERTY: THE PAST IS PROLOGUE. 112 pp. 75¢

A-57. 1956-57 Report. NOR SPEAK WITH DOUBLE TONGUE 112 pp. 75¢.

A-56. 1955-56 Report, LIBERTY IS ALWAYS UNFINISHED BUSINESS. 96 pp. 50¢

A-55. 1954-55 Report. CLEARING THE MAIN CHANNELS. 144 pp. 50¢

2. THE BILL OF RIGHTS. Text of first ten amendments. 4 pp. Free

4. THE CONNECTICUT SCHOOL BUS LAW. 1959. 20 pp. 15¢

5. MARINE CORPS AND CIVIL LIBERTIES AT PARRIS ISLAND. 1957. 11 pp. 5¢

(Continued inside back cover)

Join the American Civil Liberties Union!

ACLU members in these categories receive *Civil Liberties* each month, this 1958-59 Annual Report (and future annual reports), and their choice of pamphlets:

PARTICIPATING MEMBER	\$100
COOPERATING MEMBER	\$50
SUSTAINING MEMBER	\$25
SUPPORTING MEMBER	\$10
CONTRIBUTING MEMBER	\$ 5

Associate Members at \$2 receive *Civil Liberties* and the Annual Report. Weekly bulletin is available on request to contributors of \$10 and over.

Members living in the following states and city areas also belong to the respective local ACLU organization, without payment of additional dues: *Arizona, Southern California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Washington (State); Wisconsin and Buffalo, Detroit, Lansing, New York, Philadelphia and St. Louis.* If you live in one of these areas, your chapter will automatically receive a share of your contribution. The more you give the larger its share. *Be as generous as you can!*

AMERICAN CIVIL LIBERTIES UNION

170 Fifth Avenue, New York 10, N.Y.

The ACLU needs and welcomes the support of all those—and only those—whose devotion to civil liberties is not qualified by adherence to Communist, Fascist, KKK, or other totalitarian doctrine.

Here is my \$ membership contribution to the work of the ACLU, fifty cents of which is for a one-year subscription to *Civil Liberties*.

PLEASE PRINT CLEARLY

NAME

ADDRESS

CITY ZONE STATE

Occupation

6. ARTHUR GARFIELD HAYS 1881-1954, by Roger N. Baldwin. 4 pp. Free

7. ACADEMIC FREEDOM: PHILADELPHIA EPISODES. 1954. 36 pp. 25¢

9. IF YOU ARE ARRESTED: your rights and obligations. 1956. 4 pp. Free

10. THE SUPREME COURT AND CIVIL LIBERTIES, legal analysis by Osmond K. Fraenkel. 1955. 106 pp. 50¢

10-a. 1957 SUPPLEMENT to pamphlet No. 10, by O. K. Fraenkel. 32 pp. 25¢

11. ACADEMIC DUE PROCESS — in academic freedom cases. 1956. 8 pp. 10¢

12. ACADEMIC FREEDOM & ACADEMIC RESPONSIBILITY. 1956. 16 pp. 10¢

14. CASE AGAINST N.Y. SECURITY LAW, by NYCLU. 1957. 12 pp. 5¢

15. THE SCHOOL BUS QUESTION, by Vt. Sen. G. S. Newell. 1958. 2 pp. mimeographed. 5¢

16. TWENTY QUESTIONS ON CIVIL LIBERTIES. 1958. 2 pp. Free

17. DEMOCRACY IN LABOR UNIONS: three ACLU policy statements. 1958. 32 pp. 35¢

18. CONFORMITY IN THE ARTS, by Elmer Rice. 1953. 4 pp. 5¢

19. ACLU statement on AAU's 1953 "Rights and Responsibilities of Universities and Faculties," 1958. 23 pp. 10¢

21. ACADEMIC FREEDOM AND CIVIL LIBERTIES OF STUDENTS. Policy statement. 1958. 9 pp. mimeographed. 10¢

22. "HENCEFORWARD SHALL BE FREE." Excerpts from Emancipation Proclamation, etc. 1956. 4 pp. 5¢

24. HAVE WE THE COURAGE TO BE FREE? by Arthur Hays Sulzberger. 1953. 8 pp. 10¢

26. "STRONG IN THEIR PRIDE AND FREE," by H. Cain. 1955. 6 pp. 5¢

27. SECURITY PROGRAM: PHILADELPHIA EPISODES. 1956. 16 pp. 25¢

28. UNIVERSAL RIGHTS AND AMERICAN PRACTICE, by Roger N. Baldwin. Reprinted from *Social Action*. 1958. 16 pp. 10¢

*Published by others,
distributed by ACLU*

30. TYRANNY OF GUILT BY ASSOCIATION, by Sen. Richard L. Neuberger. *Hillman Fdn.* 1955. 11 pp. 5¢

31. FEELINGS RUN STRONG ON IMMIGRATION, by Joan Christie Davis. *America*. 1958. 4 pp. 5¢

33. THE ALTERNATIVE, by Archibald MacLeish. *Roger N. Baldwin Civil Liberties Foundation*. 1955. 16 pp. 25¢

34. DILEMMAS OF LIBERALISM, by Francis Biddle. *Roger N. Baldwin Civil Liberties Foundation*. 1953. 24 pp. 25¢

35. THE TRUTH ABOUT DESEGREGATION IN WASHINGTON'S SCHOOLS. *Washington Post and Times-Herald*. 1959. 25 pp. 15¢

36. BANNED BOOKS, by Anne Lyon Haight. On censorship. 387 B.C. to the present. *R. R. Bowker*. 1955. 191 pp. 75¢

37. THIRTY-FIVE YEARS WITH FREEDOM OF SPEECH, by Zechariah Chafee, Jr. *Baldwin Fdn.* 1952. 40 pp. 25¢

38. WHAT YOU CAN'T SEE ON TV, by Wm. Peters. *Redbook*. 1957. 5 pp. 10¢

39. WORKSHOP IN DEMOCRACY. A New York conference. 1959. 24 pp. 10¢

40. THE LAW AND THE FUTURE, by Chief Justice Earl Warren. *Fortune*. 1955. 16 pp. 10¢

41. FAMOUS WORDS OF FREEDOM. *Freedom House*. 1955. 23 pp. 10¢

42. WHERE GOVERNMENT MAY NOT TRESPASS, by Henry Steele Commager. *New York Times*. 4 pp. 5¢

43. LETTER NOBODY WROTE, by B. N. Scott. *Nation*. 1957. 5 pp. 5¢

44. UNIVERSAL DECLARATION OF HUMAN RIGHTS. *U.N.* 1948. 8 pp. 5¢

46. THE CIVIL RIGHTS STORY — 1956, by Theodore Leskes. *American Jewish Committee*. 1957. 40 pp. 20¢

47. ACLU STATEMENT ON JURY TRIAL AMENDMENT TO 1957 CIVIL RIGHTS BILL. *Cong. Record*. 1 pp. Free

48. PRESENTING THE INTERNATIONAL LEAGUE FOR THE RIGHTS OF MAN, the world organization with which ACLU is affiliated. 1957. 6 pp. Free

49. SCRUTINY OF PROFESSORS, by Louis Joughin. *AAUP Bulletin*. 1958. 12 pp. 10¢

61-95-21

YOU HAVE AN INTEREST

IN CIVIL LIBERTIES!

SO — JOIN* THE

AMERICAN CIVIL LIBERTIES UNION!



The ACLU is the only permanent national non-partisan organization defending the Bill of Rights for everyone—without distinction or compromise. It depends on its members for all its funds.

The Union needs and welcomes the support of all those—and only those—whose devotion to civil liberties is not qualified by adherence to Communist, Fascist, KKK, or other totalitarian doctrine.

See Membership Blank on Page 112

*If you already belong, won't you pass this Annual Report on to a friend, when you have finished it, urging him or her to *join the ACLU*.

BEQUESTS TO THE ACLU

During the past nine years the national American Civil Liberties Union has received by bequest a total of \$109,000 from the estates of fifty persons. (Some affiliates have also received bequests.) The legacies have ranged from \$20 to \$25,000.

The Union regards such gifts with special pride and special obligation, because they represent the legators' final dedication to the preservation of civil liberties in our democracy.

Anyone desiring to make such provision in his or her will may wish to use this language: "I give \$..... to the American Civil Liberties Union, Inc., a New York Corporation." If the testator is in an area where there is an ACLU affiliate, and wishes the affiliate to share directly in the bequest, the proportion to be so shared should be specified.

*Price of this pamphlet: 75¢ postpaid.
For quantity prices, see page 112.*

ACLU'S DEFENSE OF LIBERTY

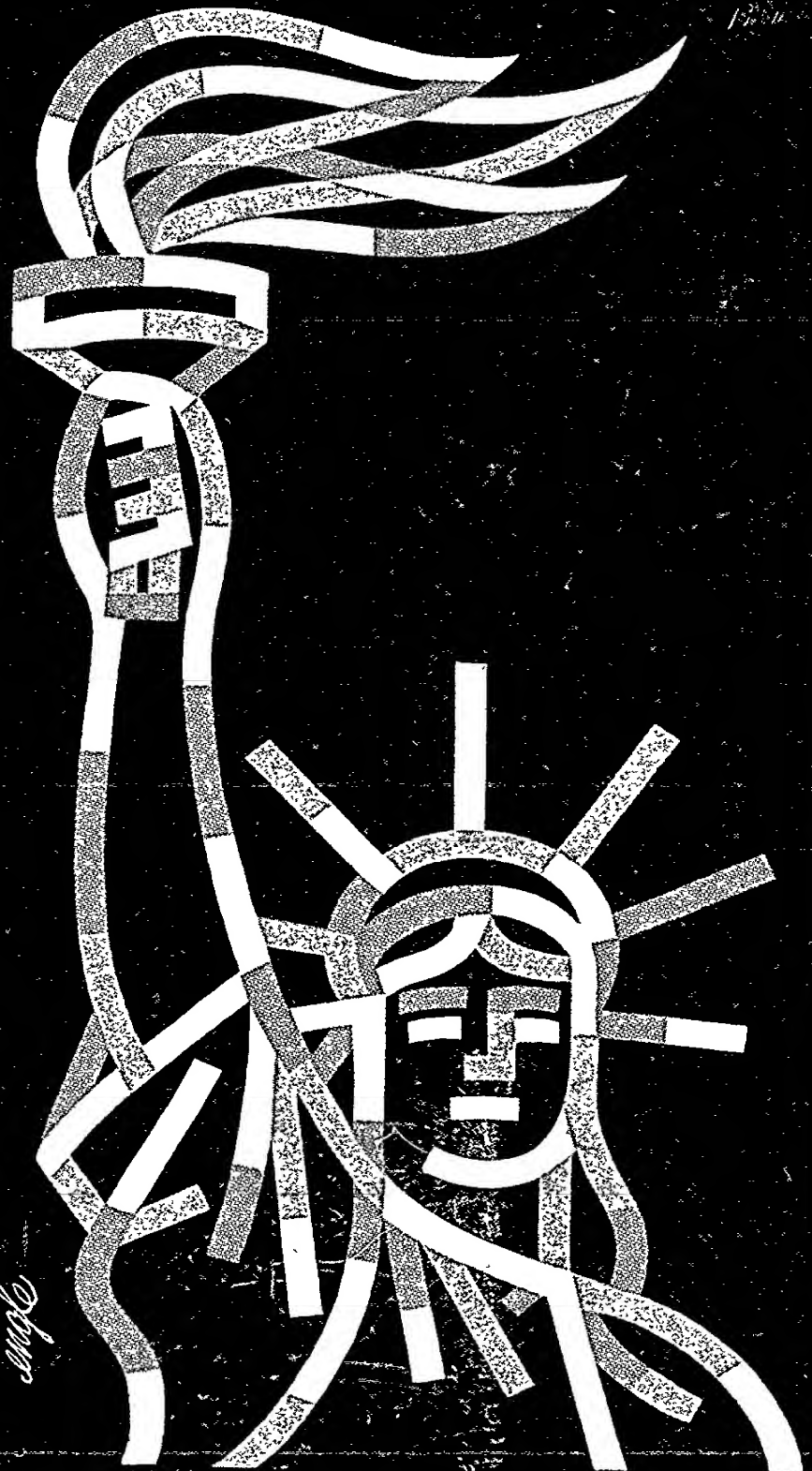
BY THE PEOPLE

40th ANNUAL
REPORT

July 1, 1959 to
June 30, 1960

AMERICAN
CIVIL
LIBERTIES
UNION

156 Fifth Avenue
New York 10, N. Y.



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Telephone: MEtropolitan 8-6602)

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Mrs. Bernice Meyers

Staff Associate—Jeffrey E. Fuller

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"BY THE PEOPLE"—1920, 1960, 2000

BY PATRICK MURPHY MALIN

Democracy, the dictionaries say, is "government by the people; direct or representative." But something more than a democratic government is needed for a free society; the people must have a large measure of freedom even from their own democratic government. They must have rights as citizens—civil liberties. "Personal liberty," said Charles Morgan in his Zaharoff Lecture at Oxford in 1948, "cannot survive without constitutional liberty. . . . In countries with a written constitution the removal of checks upon power is blessedly difficult. The people of the United States have wisely denied themselves the opportunity to sweep away their institutions and plunge themselves into slavery by the impulse of one vote. . . . Montesquieu puts [the] question in concrete form: will democracy preserve the Balance of Powers? Unchecked power is no less tyranny because someone has voted for it."

The American Civil Liberties Union has for forty years been enthusiastically grateful for this nation's democratic government and free society; neither the democracy nor the freedom is complete, but both are wide and deep. The task of the Union has been, and still is, simply to preserve and improve both democracy and freedom by defending the central constitutional safeguards which keep power in check. Those central safeguards—the rights of the people as citizens, their civil liberties—are set forth in the Bill of Rights (the first ten amendments to the federal constitution) and other cognate provisions of the federal and state constitutions. They are: freedom of inquiry and communication, fair procedures, equal protection of the laws, and the "retained" and "reserved" rights of the people (emphasized in the Ninth and Tenth Amendments).

It has never been easy for even the American people to preserve and improve both democracy and freedom by defending those central safeguards. It became downright hard with the country's "coming of age," internationally and industrially, at the time of World War I. Hence, there was nothing accidental or astonishing about the American Civil Liberties Union's coming into existence in 1920, as an agency—typically American in being at once organized and private—for the more effective defense—by the people—of those central safeguards, against mounting threats.

International and industrial factors have all along been the chief scene-setters for the Union's work. So it took no special insight, late in December 1949—when the then newly-appointed second executive director of the Union was asked at his pre-induction press conference what would be the main sources of difficulty for civil liberties in the next few decades—for him to answer: "War and machines."

War had to be stressed because, even if there were to be no all-out war, terrible events were already occurring throughout the world; and this country was, for the first time, entering what would probably be a long period of unremitting international danger. The resultant intense pre-occupation of our people with national security, normal and admirably patriotic, would incidentally cause morbid pressure of many

sorts on civil liberties. (Less than two months afterward, the late Senator Joseph McCarthy launched his attack on the State Department's personnel; and, four months after that, the Korean conflict added strong impetus to an indiscriminate assault on civil liberties.)

Machines had to be stressed because the ever-swifter growth of machine technology, with the attendant increase in social complexity, would bring in its wake other problems for civil liberties far more intractable than those of the simple economy of 1787-91, when the Constitution and the Bill of Rights were framed—more intractable than those of “the good years” of 1900-14, even than those of the 1920's and 1930's and 1940's. (The 1950's were marked by a worsening of the problem of wiretapping: how can our people, through the police, curb crime in the automobile-airplane-telephone age, without letting themselves become the prey of ravening invasions of their privacy?)

Nineteen-sixty has deepened concern on the war front. Even before the U-2 was shot down and the summit conference was destroyed, the world had entered the most sombre period since the end of World War II. Now, in mid-October, the United Nations Assembly is struggling to recover from Khrushchev's desk-pounding attempt to have his own way on the Congo and disarmament, and so keep the Chinese Communists in leash; a Japanese party leader is assassinated, the French people are tearing themselves asunder over Algeria, and the Castro-American conflict rages just short of war.

We can thank our lucky stars that the defection of two communications intelligence experts of the National Security Agency in the Department of Defense came after Congress had finally adjourned for the presidential campaign, and—more important—that comment in governmental circles and outside has shown maturing recognition that such real dangers to national security cannot really be countered by slap-dash methods which threaten civil liberties. Linus Pauling's stand against the Senate Internal Security Sub-committee has not yet brought a contempt citation. Vice-President Nixon and Senator Kennedy have been sober in talking about how to deal with Communist subversion.

But, as long as the international temperature is feverish, there will remain at least latent trouble for civil liberties. Even during this year of relatively good sense, Willard Uphaus is in a New Hampshire jail because of a 5-4 United States Supreme Court decision on his refusal to give a list of names. And the House Un-American Activities Committee has proved anew that it should be abolished, by once again staging a meaningless side-show in its almost sole remaining happy-hunting-ground of California. That serpent in our *demi-paradise* of a democratic government and a free society can be scotched only by the people, through their Representatives.

Nineteen-sixty has deepened concern on the social-complexity front, also. The fathers of this Republic, desiring both religious freedom and national unity, aimed to keep their new federal government out of religion altogether, whether for or against; and they did a magnificent job of pointing the way. But they did not have to cope, as we must, with the multiplying complications growing out of the success of our machine civilization—which has attracted the most heterogeneous population on earth (heterogeneous—among other ways—in its religion,

non-religion and anti-religion), and has made our educational institutions both a prime necessity for national strength and a rich prize for anyone who can control them. The schools—most of all in finance and in curriculum—are the chief stake in the church-state contest.

That controversy, despite frantic efforts of one sort or another, will not disappear from the current presidential campaign. But the problem is much bigger than what would, or would not, result from the election of a particular President. The comprehensive problem is this: Will all our governmental executives and legislators and judges (federal, state and municipal) and all our people—Catholic, Protestant, and Jewish; Quaker, Moslem and atheist—adhere scrupulously to the constitutional principle that there should be neither any governmental restraint on, nor any governmental support of, religion or non-religion or anti-religion?

Not merely governmental officials, but most of all the people themselves. Because, not only could the people remove that principle from the Constitution by amendment, but also—with more immediate significance—they can, and often do, nullify it by the pressures they bring to bear on their officials. In the last analysis, and day by day in a host of specific decisions (most especially in regard to education), it is by the people that it will be decided whether promotion of, or opposition to, any form of religion or non-religion or anti-religion, is to be entirely a private matter—with no resort to governmental action even for what they privately want in regard to religion. If they want a free society too, it will have to be maintained—by the people.

Nineteen-sixty has also been a year of Negro "sit-ins," additional handwriting on the wall for those who have not yet learned that machine civilization spells the doom of racial discrimination (in northern housing as in southern voting and schooling)—though not without dust and heat even for those who believe that doom to be as right as it is sure. Modern industry means big factories and supermarkets instead of small farms and shack stores, skilled workers and college students instead of share-croppers and handymen. Modern industry needs a large body of well-disposed workers and customers at home, as well as enthusiastic friends in Asia and Africa; and "Jim Crow, he's real tired."

The party platforms show that such handwriting on the wall has been more widely read than ever before, as does the Civil Rights Act of 1960: but we still cannot realistically expect further federal legislation at more than a snail's pace. The immediate practical question, with regard to governmental efforts to end discrimination, is still this two-fold one: Will the White House and the Department of Justice and the other federal agencies energetically and courageously use their already-existing powers, in southern voting and education and in northern housing; and will northern states and municipalities act to solve the multiplying problems of their own bailiwicks? Here again, what governments do will be determined by the people—who indeed could privately do a lot more than they are now doing, without waiting for governmental action.

Finally, nineteen-sixty marks the 40th Anniversary of the founding of the American Civil Liberties Union. Our now 52,000 members should

re-read the brief historical summary of what the Union has done with its time (and their money!) printed as the January 1960 issue of the monthly bulletin; and may also wish to order (for themselves and others) two more recent publications: "What is the American Civil Liberties Union?," and Osmond K. Fraenkel's "The Supreme Court and Civil Liberties."

The present 40th Annual Report, covering the period July 1, 1959-June 30, 1960, is more compressed than last year's—because, in using the funds for which we are grateful to our increasing and increasingly generous membership, we must allocate as much as possible to the almost immeasurably increased demand for the work in courts and legislatures and executive departments of government for which we are trustees of that income. But the present report is still detailed enough to indicate the tremendous amount of the Union's work, which—by its contrast with our small employed staff—is always astonishing to those who do not know the secret of our hundreds of unpaid volunteers, especially the cooperating attorneys.

The ACLU is like a healthy free society and democratic government. It gets its work done by the people. It now looks forward to 2000, after forty more years of work by the people.

This report, like those of immediately preceding years, was written by Mitchell Levitas, a New York newspaperman, and supervised and edited by Alan Reitman, our associate director, with the help of other members of the national staff, as well as our affiliates' staffs and officers. The twentieth anniversary of the Battle of Britain should remind us of how much the many owe to the few!

FREEDOM OF BELIEF, EXPRESSION AND ASSOCIATION

THE GENERAL CENSORSHIP SCENE

1. Books and Magazines

THE COURTS. A new constitutional interpretation by the U.S. Supreme Court struck down a Los Angeles anti-obscenity law which had held booksellers criminally liable for the possession of "obscene" literature, whether or not the seller was aware of its contents. The ruling breaks new ground along the path marked earlier by the Supreme Court in the *Roth*, *Alberts*, *Kingsley* and *Butler* decisions in limiting restrictions upon freedom of speech and press made in the name of combatting "smut," and by last year's U.S. Court of Appeals verdict upsetting a U.S. Post Office ban on *Lady Chatterley's Lover*. (See 1956-1957 Annual Report, pp. 37-39 and 1958-1959 Annual Report, p. 11.) Acting unanimously, the high court reversed a California Superior Court verdict convicting Eleazer Smith for violating the law because he offered for sale, *Sweeter Than Life*, a novel about a ruthless lesbian business woman. Smith argued that he had not read the book and had no reason to believe it obscene. While this was not an adequate defense under the Los Angeles law, the opinion of the U.S. Supreme Court regarded it as the crux of the matter. "By dispensing with the requirement of knowledge," said the opinion, "(the law) tends to impose a severe limitation on the public's access to constitutionally protected materials." The opinion declared that since there was a limit to the number of books a dealer could personally read and since "his timidity in the face of his absolute criminal liability" would induce him to restrict sales to books he had read, "the state will have imposed a restriction upon the distribution of constitutionally protected as well as obscene literature. . . . The door barring federal and state intrusion into the fundamental freedoms of speech and press cannot be left ajar. It must be kept closed, and opened only the slightest crack necessary to prevent encroachment upon more important interests."

The U.S. Supreme Court decision was quickly applied in several localities where prosecutions were pending. In Indianapolis Criminal Court Judge Richard Salb declared unconstitutional a state law under which 17 booksellers had been arrested for the possession of "obscene" books and magazines. "(I) am firmly opposed to government censorship of adult reading material and adult speech," the jurist declared.

The Attorney General of Vermont dropped the prosecution of a local magazine distributor because of the *Smith* decision. The official said he would ask the legislature to adopt a law tailored to meet the court's new requirements, however. The Rhode Island legislature has already done so, and the new law has been upheld as constitutional by the state Supreme Court. The Rhode Island Affiliate, ACLU, in a brief supporting bookseller Harry B. Settle of Newport, said the statute was written vaguely and so broadly that it permitted punishment for acts or words protected by the federal constitution. The state high court

ordered a new trial for Settle to determine whether the novel he is accused of selling to a minor, *Peyton Place*, is obscene. A jury did find the book to be indecent, but the case is being appealed. The *Smith* decision also found echoes in Spokane, Wash. where a state court voided a state law barring the sale of "obscene" literature whether or not the purveyor knew the contents of what he offered for sale. In Cincinnati, Cleveland, Miami Beach, Newport News, Va. and New York City obscenity convictions and prosecutions were reversed or dropped because of the Supreme Court's *Smith* ruling.

Sections of state laws in Maryland and West Virginia which sought to protect minors from gaining access to allegedly harmful reading matter have been declared unconstitutional on the grounds that they are too vague and are also discriminatory against adults. Baltimore Superior Court Judge Reuben Oppenheimer said the provisions barring sale of material do not meet due process requirements "in that they do not give fair notice of what acts will be punished, and permit within the scope of their language the punishment of acts protected by the principles of freedom of the press." In addition, he pointed out that "adults are not allowed to see the books which it is their right to buy and read. The right of young persons to read what they will," Judge Oppenheimer continued, "within the limits of permissible federal or state action, is vital not only to them but to all our citizenry. The exclusion of obscenity from protected utterances does not carry with it the right to obscure from young or old facts or events, however unpleasant, disturbing or violent. It is through realization, in formative years, of the meaning of the ordered liberties protected by the Constitution that an adult citizenry is most apt to have the feelings and thoughts and to take the actions which are 'the real protection against attempts to strait-jacket the human mind.'" The opinion was upheld by the state's highest court. The West Virginia Supreme Court of Appeals used similar reasoning in ruling unconstitutional that part of the state statute against obscenity aimed at protecting the morals of youth.

The Post Office Department finally gave up attempts to ban *Lady Chatterley's Lover* following the decision of the U.S. Court of Appeals in New York that D. H. Lawrence's classic is not obscene. (See last year's Annual Report, p. 11.) The appeals court was unanimous in deciding that the book is mailable, but divided 2-1 on its literary and moral values. Though the jurists were divided on esthetic grounds, they were agreed that Postmaster General Summerfield was "extreme" in banning the book from the mails.

The Illinois Division, ACLU won a Federal District Court suit in Chicago on behalf of the first issue of *Big Table*, a literary magazine banned by postal authorities on the grounds that two short stories were "obscene, lewd, lascivious and filthy." The affiliate said that the magazine was a serious literary effort. In addition, the complaint attacked the Post Office procedure under which allegedly objectionable material is impounded without any prior notice or hearing. The judge agreed with the Illinois affiliate that *Big Table* represented conscientious literature but did not pass upon the constitutionality of the administrative practice. The government plans no appeal.

The ACLU and the New York Civil Liberties Union also success-

fully countered the machinery of the Post Office Department when they won an end to the use of post office property to publicize the views of a magazine editor who opposed the circulation of the unpurgated *Lady Chatterley's Lover*. The incident arose when it was noticed that post offices in New York's Nassau County had posted reprints of an editorial by the Rev. Daniel Poling, editor of *The Christian Herald*, attacking the book. In a joint letter, the ACLU and the NYCLU expressed dismay that taxpayers' money was being used to publicize the views of a private individual, especially since the action "seemed to flout" a Federal District Court ruling upsetting the Postmaster General's administrative action. The response to the civil liberties protest was an order removing the Poling reprint as "not in accord with postal regulations" and the pledge that "henceforth (officials) should not post statements by private individuals."

A Federal District Court ruled that Iowa's Attorney General had a legal right under the state's anti-obscenity statute to warn wholesale magazine distributors that he had asked county attorneys to remove 42 "girlie" magazines from the newsstands and to prosecute local dealers who offered them for sale. The magazines' publishers, backed by the Iowa Civil Liberties Union, had charged that the official's threat, in place of regular criminal procedures, "amounts to practical pre-censorship of reading matter without the safeguards inherent in a trial by jury and without due process of law." The court's opinion, however, said that no issue of pre-censorship is involved as no attempt was made to ban future issues of the magazine.

U.S. POST OFFICE CENSORSHIP. The latest in a series of court tests over the past decade seeks once again to prevent the Customs Bureau and the Post Office Department from banning entrance and delivery of material they regard as "foreign propaganda." The most recent actions were brought in the Federal District Court in Washington, D.C., on behalf of two Chicago plaintiffs, the Modern Book Store and Mrs. Helen MacGill Hughes, a sociologist. The Washington suits were filed by attorneys for the Illinois Division, ACLU to back up similar suits brought in Chicago. The Chicago suits appear mooted because the postal and customs units which had been screening foreign political propaganda mail in Chicago were closed down and transferred to post offices in New York and San Francisco. The Modern Book Store had sought an injunction enjoining the Chicago postmaster and customs collector from withholding delivery of six shipments of books and magazines from two Canadian publishers; the book store claimed the Post Office acted without statutory authority in violation of the First and Fifth Amendments of the federal constitution. Mrs. Hughes, managing editor of the *American Journal of Sociology*, had tested the Post Office's authority to bar delivery of two Czechoslovak publications (*See last year's Annual Report, pp. 14-15.*) The Washington, D.C. suits, brought against Postmaster General Summerfield, Treasury Secretary Anderson and Customs Commissioner Kelly, were filed in the nation's capital, the Illinois Division said, to bring before the courts the officials ultimately responsible for the "foreign political propaganda program." Noting that in previous cases the government avoided any court test of

its censorship authority by delivering the detained mail to persons who challenged the program, the ACLU affiliate said the program was "hit-and-run government in which officials continue a censorship program of questionable legality and at the same time seek to prevent citizens from having the courts rule on the legality of their conduct."

It was against this background that the Senate Subcommittee on Constitutional Rights began an investigation of the Post Office practice of intercepting mail from abroad that it considers subversive—about 15,000,000 pieces of mail annually. Although the practice is no longer carried out in secret and libraries and universities now get the material as a rule, firm opposition remains to the regulation demanding that the addressee sign a card saying that he requested the literature being withheld by the Post Office before it is delivered.

PROTECTION OF JUVENILES. Most legislative action directed against "obscene" books, magazines and other material is intended to protect young children and teen-agers against what many believe to be the harmful effects of such reading matter, such as the inducement to commit acts of juvenile delinquency. The ACLU has long questioned whether there actually is such a causal relationship between reading and the commission of a crime. On several occasions during the 86th Congress Union spokesmen again emphasized that in view of expert disagreement over whether, in fact, such a causal relationship exists, efforts to protect youth against "smut" through legislative proposals to curb the flow of obscene matter cannot violate constitutional safeguards against censorship. The Union therefore regarded as a qualified victory a new law which limits the power of the Postmaster General to impound mail allegedly connected with the sending of obscene materials by forcing him first to seek authority from a Federal District Court. Although the Union is opposed to pre-censorship in any form, the measure at least thwarted attempts by the Postmaster General to increase his vast and often abused powers and deprived him of his previous power to impound mail by his own fiat.

Such moderate legislation was in contrast to two proposed constitutional amendments against which ACLU executive director Patrick Murphy Malin testified. Appearing before the Senate Subcommittee on Juvenile Delinquency and Constitutional Amendments, Malin opposed one measure which would allow each state to decide "on the basis of its own public policy, questions of decency and morality" and would bar any abridgement of the right of states to enact legislation in this field. The other suggested amendment would suspend free speech and free press guarantees from application to materials found obscene according to the definition laid down by the U.S. Supreme Court in the 1957 *Roth* case. The former amendment was introduced by Sen. Eastland, the latter by Sen. Kefauver. The Eastland bill, said the ACLU, could nullify all the safeguards in the Bill of Rights because the words "morality" and "decency" are so vague as to "defy precise definition" and invade constitutional protections. The Kefauver bill was "extremely bad social policy" because it sought to "petrify by constitutional amendment so amorphous and slippery a concept as 'obscenity'." The Union added that while it differed with the high court definition made in the

Roth case, the time may come when the Court may change its definition of obscenity "based on new evidence discovered by social scientists."

Malin said it was "natural that in the common desire" to combat juvenile delinquency "there should be sought a simple cause and a quick solution. The emotions of pity and indignation," he said, "lead to the plausible conclusion that if we can give some public official broad power to stop the flow of "smut" we shall then have gone a long way to insulate our children from pernicious influences which, unrestrained, lead them into degradation and crime. Nonetheless, we must bear constantly in mind that with respect to juvenile delinquency no less than with respect to any other area of anti-social or criminal behavior, minimum standards of constitutionality must not be circumvented in the search for a cure. . . . We wish to make it clear," Malin added, "that we do not profess to be experts on the issue of whether there is a causal relationship between the reading or viewing of books and films and the commission of an illegal act, but we know there is a great difference of expert judgement on the matter."

The ACLU favored a House bill to create a commission to study the effect of allegedly obscene material on juvenile delinquency, but this idea died in the lower chamber. A Senate bill to establish a Commission on Noxious and Obscene Matters, based on the assumption that the causal relationship exists, was opposed as establishing, in effect, a national censorship board. A special commission appointed by the state of Massachusetts to investigate the ties between juvenile delinquency and the distribution and sale of offensive publications reported that it had discovered no proof that such publications have even a contributory effect towards anti-social behavior.

STATE LEGISLATION. The Virginia legislature has passed a new law to replace one declared unconstitutional by the state Supreme Court of Appeals because it limited the choice of adults' reading material to those which did not "manifestly tend to corrupt the morals of youth." The new measure follows the language of the U.S. Supreme Court in defining obscenity as works which have as their dominant theme or purpose an appeal to prurient interest. A Rhode Island Superior Court heard a constitutional challenge of the state law establishing a Commission to Encourage Morality in Youth. The suit charged that the law violates free press protections of the First Amendment and due process provisions of the Fourteenth Amendment. As part of its "educational" work the Commission has been circulating lists of volumes it believes to be in violation of the law to wholesalers and retail store owners. Fearing prosecution, the dealers have often stopped ordering the books. Four publishers who brought the suit declared that the Commission actually was halting the sale of books without a prior judicial finding that they violated the law. The activities of the Commission have drawn the criticism of segments of the press as well as of the ACLU's Rhode Island affiliate. The affiliate condemned police officials in a number of cities who had asked local drugstore owners and other dealers to remove from their shelves books criticized by the Commission.

The Governors of Illinois and Ohio vetoed bills which limited the

distribution of magazines and films by unconstitutional means. Gov. William G. Stratton of Illinois vetoed a measure giving Cook County the power to prohibit "obscene" theatricals and exhibitions, stating that it invaded "the constitutional rights of citizens" by failing to include an adequate definition of "obscenity." Gov. Michael V. DiSalle vetoed a bill, backed by the County Prosecutors Association and the Ohio Citizens for Decent Literature, to cancel the exemption of magazines and newspapers mailed under second-class postal permits from prosecution under Ohio nuisance and obscenity laws. Gov. DiSalle called the measure unnecessary because the Post Office already checks on the contents of publications having second-class mailing privileges. He also said it "threatens the constitutional guarantee of freedom of the press and endangers the dissemination of news, which, by some, could be considered lewd or indecent. . . . We must not overlook the harm done to our basic democratic structure should we eliminate such freedom for all because of the abuse of a few," Gov. DiSalle commented in his veto message. A test of the Ohio obscenity law which bars mere possession of obscene literature, backed by the Ohio Civil Liberties Union, is now before the U.S. Supreme Court. The affiliate believes that mere possession by an adult of such material cannot be banned, because it violates the right of privacy and the right to read as well as the Fourteenth Amendment's equal protection clause.

THE LOCAL SCENE. San Francisco and many nearby communities were put in a turmoil over police censorship actions sparked by local Citizens for Decent Literature groups. (*See below for more activities by this group.*) The ACLU of Northern California, which has been in the forefront of the opposition, made it clear that while it is not opposed to any private group expressing its views, when such groups put pressure on newsdealers and distributors to censor books and magazines through the threat of economic boycott or the circulation of lists of objectionable literature, then "the constitutional rights of citizens are in grave danger." A group of San Franciscans inspired a drive to enact a local anti-obscenity ordinance that reached such a pitch that six large bookstores received threats that their stores would be bombed if they did not stop selling books and magazines proscribed by the Vigilante Committee for Decent Literature. The San Francisco postmaster, armed with a San Mateo CDL list, removed 100 publications from the newsstand in the federal building. Said the official: "As far as I'm personally concerned, the test to what is good literature is whether or not I would want my teenage daughter to read it."

Members of the San Mateo City Council and the ACLU of Northern California objected vehemently when the local chief of police, aroused to anger by a picture in *Playboy* magazine, promptly had the issue removed from the stands, and announced that his judgement would be enough for future moves against other "girlie" magazines. The Union affiliate said that it was the police chief's duty to make an arrest if he believed a law was broken, but not to "substitute his own judgement for that of the court's." *Playboy* was barred by the police chiefs of four other area cities, although it remained on sale in San Francisco, Redwood City and Marin County. The publication was also removed

from newsstands in Connecticut, a move which drew the criticism of the Connecticut Civil Liberties Union in a letter to the Commissioner of the State Police, the official who initiated the ban. The CCLU warned that when the Commissioner says a publication is "objectionable" or "actionable" and encourages its elimination from newsstands, he is virtually exercising prior restraint over printed matter, which is protected by the First Amendment's guarantee of a free press.

Following lengthy hearings a Municipal Court judge in Portland, Ore. set aside an anti-obscenity ordinance, the second time within a year that such a measure has been declared unconstitutional. The ACLU of Oregon was the only civic group to oppose the local law before it was voided by the Portland court. A statement submitted to the City Council before the ordinance was passed summarized the affiliate's objections, emphasizing its procedural failings. Among these were the fact that after a summary judgement that a publication was obscene a retailer could not argue in a subsequent prosecution that the publication was not obscene. A state statute prohibiting the sale of books "tending to incite to lustful thoughts" is before the Oregon Supreme Court. The ACLU state correspondent in Alaska lodged a protest with police officials in Anchorage after police ordered the removal of two nude paintings in a local nightclub. Members of the City Council, calling the nudes "works of art," overruled the police.

The situation was different in Milwaukee and Oklahoma City, however, where local review boards were established. The sole voice of protest in Oklahoma City was raised by the ACLU state correspondent, who said the ordinance gives a "small group of persons . . . the power to determine what the citizens shall and shall not be allowed to read." The Minnesota Civil Liberties Union is keeping a watchful eye on a situation that developed after a police raid on a bookstore failed to disclose what the police were sure they would find—"obscene" literature. A grand jury immediately wanted to know if the raid had been tipped-off to the store.

Chicago was the scene of two unusual incidents. The Chicago Transit Authority, a public agency, barred a number of publications from sale on newsstands and defended itself from criticism by the Illinois Division, ACLU by declaring: "This is not censorship, but rather the exercise of our right to say what can be sold on CTA properties." The Union affiliate said that the agency acted capriciously and by administrative fiat, without the use of a standard or definition of what is objectionable material. The agency finally rescinded its order. On the other occasion, a Municipal Court judge directed a verdict of guilty, holding that obscenity is a question of law which a judge can decide without a jury's help. Subsequently, however, the judge granted the defendant a new trial after the U.S. Supreme Court ruled in the *Smith* case that a bookseller had to know that a publication was obscene before he could be prosecuted. Since then the ordinance has been revised to meet the Court's requirement of knowledge.

A Harvard University professor has become enmeshed with the Massachusetts law on obscenity. Dr. John P. Spiegel, a psychiatrist, has the backing of the university in pleading not guilty to an indictment charging that he imported obscene photographs from London for pur-

poses of exhibition. Prof. Spiegel said he was using the photographs for professional purposes in a study of "the causes of emotional disturbance." The court contest resembles the seven-year successful battle of the Kinsey Institute against the Customs Bureau seizure of concededly pornographic objects from abroad.

PRIVATE PRESSURE GROUPS. Undoubtedly the most active private pressure group in the nation is the Citizens for Decent Literature, a network which was born in Cincinnati in 1958 and which now has inspired more than 100 similar groups in all 50 states. The organization claims 17 units in Ohio, 14 in California, and eight each in Indiana and Illinois. Prominent citizens, churchmen and political figures are often listed as local sponsors of CDL cadres, as in Portland, where the group is called the Mayor's Committee for Decent Literature. The CDL, which makes no secret of its dissatisfaction with the trend of court verdicts on obscenity prosecutions, is planning a national crusade to "enlighten the public" by forming local branches in every community in the country. The immediate target of the CDL are newsstands and drug stores which sell allegedly obscene magazines and paperbacks. The CDL's method is to "demand action from police, the courts and juries;" it also is campaigning for tougher federal anti-obscenity laws.

The CDL denies that it practices censorship or attempts economic boycotts. "It is merely the exercise of every citizen's right to stand up and be counted, to state his belief in what should be allowed and prohibited in society." Despite the organization's disclaimers, local CDL committees have often resorted to the use of lists of "objectionable" publications which police then use in clean-up campaigns—a technique first developed by the long-established National Office of Decent Literature. A more original method has been the encouragement by the CDL of its members to attend public trials of obscenity prosecutions—a step which forced judicial rebukes by judges in Cincinnati and Indianapolis who were on the receiving end of CDL letter writers. The Indianapolis judge warned that such correspondents could be held in contempt of court. The paths of CDL committees and ACLU affiliates crossed in many localities, among them: Evanston, Ill., where the North Shore Committee of the Illinois Division, ACLU viewed with dismay the CDL campaign, including distribution of placards to stores which have agreed to abide by the CDL's "code of decency;" Youngstown, Ohio, where the Civil Liberties Committee warned against a CDL petition endorsing "any positive action" against the "menace" of obscene literature; Minneapolis, Minn. where the CDL pressed for an ordinance shifting the burden of presumption to the defendant—the display of any "obscene" publications would become prima facie evidence that it was intended for sale. The Union affiliate is investigating the proposal. The York County, Pa. ACLU put on notice a local PTA campaign aimed at removing certain books from newsstands with the statement that "the responsibility of private groups and citizens extends only to the right to refer such problems to law enforcement officers." The Buffalo Youth Board's Salacious Publications Committee has been reinforced by the addition of a pair of policemen who reportedly "suggested" to retailers that they remove offending magazines and books to avoid "running

into trouble" such as being arrested or served with a summons. The Niagara Frontier (Buffalo) Branch, ACLU is watching developments.

CENSORSHIP IN SCHOOLS, LIBRARIES. The National Education Association reported an increase in the number of attempts to censor students' reading lists and textbooks. The NEA sampling was confirmed by a University of California social psychologist who estimated that 29 per cent of California's school librarians normally avoid purchasing so-called controversial books. The usual excuse of the librarians, who say they believe in the principle of "freedom to read," is that the books are "trash" or are on "too advanced a reading level." In 26 California communities studied for the report, libraries removed 56 per cent of books challenged by outside pressure groups and 85 per cent of the books about which library personnel had doubts. In addition, because of the attacks by vigilante groups, many school and public libraries established written rules, albeit vaguely worded, for book purchases. The results of the study closely corresponded with a previous study in New Jersey and librarians in 10 other states who read the report agreed that their communities had endured similar censorship drives. Fiction by John Steinbeck and James Joyce and non-fiction by Karl Marx and Alfred Kinsey are often among the target of such campaigns. Sometimes librarians hid books or placed them "on reserve," at least one burned books. An attempt at legislative interference with the subject matter of textbooks was rejected by the California Supreme Court when it decided that the legislature could not refuse to pay for the printing of two illustrated science texts ordered by the Board of Education. The legislature disapproved the format of the books.

The Florida Civil Liberties Union protested the removal of two modern classics from the required reading lists of Miami high school students in a dispute that made national headlines in almost an anticlimax. This came when U.S. Commissioner of Education Lawrence Derthick said he had never heard of George Orwell's *1984* or Aldous Huxley's *Brave New World*. "I've never heard of those books and I don't think it would be prudent of me to discuss them," the U.S. Commissioner of Education said. The controversy began with an anonymous phone call to the principal of North Miami High School complaining that the books contained "immoral material." The principal was backed by two superiors in the county educational system when he removed the books from the reading lists although neither he nor his superiors were familiar with both books. In a public statement and in an appearance before the school board, the Florida Civil Liberties Union said that the incident had raised serious issues of censorship and academic freedom. "The action . . . also reflects serious inroads on the right of the teacher to teach as he sees. . . . The precedent thus established leaves the school system dedicated to a new standard—the standard of mediocrity. . . . It turns over the school system to those critics who are obsessed with obscenity."

The newly-formed ACLU of New Jersey opened its ledger with an inscription to the credit of civil liberties. The affiliate praised the Clifton Library Board for standing up to community pressure and keeping open a shelf on which such "controversial" novels as *Lolita*, *Lady Chatterley's*

Lover, and *Peyton Place* had previously been guarded behind a locked glass door. "Who are we to censor books?" asked Board chairman George Qulick. The New Jersey affiliate said: "Censorship in any form has no place in our free society and our libraries as custodians of human thought have a particular responsibility to maintain the open market of ideas." A faculty committee of a Levittown, L.I. public school decided to retain two articles used in a sixth grade "reading kit" after a study prompted by criticism of the articles which appeared in *The National Review*, a conservative publication. The articles were "Alexander Hamilton," reprinted from the *American Stream of History* and another by Norman Cousins in the *Saturday Review of Literature*. The kit was temporarily withdrawn from circulation while the study was in progress. The committee reported that the issue raised by the criticism and the counter-criticism of censorship made when the kit was withdrawn had raised a basic question for local citizens: "Do they really want their children to be taught by the fearful, the unimaginative, the conforming, the dull? It is our heritage to respect and cherish variety in points of view. Insistence upon uniformity of thought is not our way."

HANDBILLS. The U.S. Supreme Court declared unconstitutional a 28-year-old Los Angeles ordinance requiring all handbills distributed in the city to carry the name of their author and distributor. Although the city tried to justify the ordinance as a protection against fraud and libel, the high court majority said it would discourage pamphlet writers and thereby restrict freedom of speech and expression. The decision appears to mark a new frontier of the Constitution's protection of anonymity of expression. The landmark ruling was supported by the ACLU of Southern California, which sponsored the appeal of Manuel D. Talley. Talley was fined \$10 in 1958 when he distributed handbills which urged consumers to boycott a local market because it sold products of manufacturers "who will not offer equal employment opportunities to Negroes, Mexicans and Orientals." The majority opinion declared that there was no doubt that the requirement of the law identifying handbill authors would intimidate them. "Anonymous pamphlets, leaflets, and even books have played an important part in the progress of mankind," the opinion declared. "Persecuted groups and sects from time to time throughout history have been able to criticize oppressive practices and laws either anonymously or not at all." The majority opinion relied in part on recent high court decisions holding that the National Association for the Advancement of Colored People could not be required to disclose its membership lists because they might be subject to reprisals. The dissenters said there was no claim or proof that Talley would suffer any injury by signing the handbills. "The Constitution says nothing about freedom of anonymous speech," said the minority. The decision did not concern the federal law requiring the identification of political campaign literature.

Court action was only threatened in Sacramento but it was enough for the city to end a year-long ban on the self-service newsstands of the Socialist Labor Party newspaper, *Weekly People*. The City Attorney had argued with the ACLU of Northern California, which was pressing the issue, that the newspaper primarily supported certain political and

economic views and was not generally sold or delivered throughout the city. Therefore, he maintained, the newspaper was not entitled to sidewalk space for its stands. The ACLU affiliate replied that the tests were arbitrary and unreasonable and violated freedom of expression.

2. Motion Pictures

THE COURTS. The U.S. Supreme Court has under consideration an appeal from two lower federal courts challenging the constitutionality of pre-censorship of films. The ACLU and its Illinois Division filed a friend-of-the-court brief arguing against pre-censorship. The test case, based on the refusal of the Times Film Corp. to submit the movie *Don Juan* to prescreening under the Chicago ordinance, may decide whether the film medium is entitled to the same constitutional guarantees against prior restraint of communication that other media enjoy. Previous high court decisions in movie censorship cases touched on the question of whether pre-censorship is constitutional, but the verdicts were decided on more limited grounds of whether the film was, in fact, obscene, or whether definitions of sacrilege and immorality were unconstitutionally vague. Meanwhile, *Don Juan* cannot be shown in Chicago and city officials have shelved a new ordinance curbing juveniles' attendance at certain films pending the outcome of the case.

Chicago is also the scene of another legal dispute over movie censorship, involving the French film, *The Lovers*. But unlike the distributors of *Don Juan*, which refused to submit the film for municipal screening, the distributors of *The Lovers* took the case to the Federal District Court after the police review board, composed of six widows of minor Chicago politicians, refused to license the film. The court refused to upset the ordinance on the grounds that it failed to interfere with movie production. The decision is being appealed. *The Lovers* was judged obscene by three Common Pleas Court judges in Cleveland who said they had scrupulously applied the standard for judging obscenity set down by the U.S. Supreme Court in the *Roth* case. The verdict also resulted in a felony conviction for the theatre manager who showed the film, thus jeopardizing his bid to become a naturalized citizen. Counsel for the manager, who is being assisted by the Cleveland chapter of the Ohio Civil Liberties Union, has pledged to carry the case to the U.S. Supreme Court. The trio of Common Pleas Court judges said that "in evaluating this motion picture the court has been ever mindful of the film taken as a whole and its appeal to the average person and has applied contemporary community standards"—the language of the *Roth* verdict. *The Lovers*, which appeared to be the trouble-making movie of the year, also made censorship news in Portland. The ACLU of Oregon planned to file a friend-of-the-court brief on behalf of a theatre manager who is appealing a Municipal Court conviction for showing the film without a license. The police had ordered two portions of the movie deleted, the theatre refused, and prosecution followed. The affiliate brief seeks to test the constitutionality of the ordinance which contains vague language and sets no standards.

Also on its way to the higher courts is a "model" Pennsylvania film censorship law establishing a three-member Motion Picture Control

Board that was declared unconstitutional in a unanimous decision by the Commonwealth Court in Dauphin County. The state immediately said it would appeal the decision. The opinion said that the new law was "so vague and indefinite as to be inoperable" and that it violated freedom of expression and due process safeguards of the state and federal constitutions. The opinion found that the obscenity standards went far beyond the standards set down by the U.S. Supreme Court and made this additional point: "There is no rational basis for the act's distinction between what may be shown to persons over and under the age of 17." The ACLU of Pennsylvania criticized the law when it was passed in 1959 as "dangerous and unconstitutional" because, among other things, it had the effect of imposing prior restraints by becoming effective *after* a film was shown. (See last year's Annual Report, p. 22.)

STATE AND LOCAL ACTIONS. An informal and extra-legal attempt at film censorship, using the device of classification, has aroused trade interest in Memphis, Tenn. There, film exhibitors who had been harassed by the city's board of censors, agreed to publish the movie ratings of the Green Sheet in exchange for an end to attempts by the censors to win a formal film classification ordinance. Green Sheet ratings, approved by the Motion Picture Association of America, are a monthly roundup of opinion of 11 organizations. The agreement put the MPAA in an awkward situation, since it has traditionally opposed all forms of film censorship or classification, and did not visualize that the Green Sheet could be put to that very use. Among the films banned by the Memphis board was *Island in the Sun*, which was labelled "obscene because of its white-Negro romance." Meanwhile, the Texas Council of Motion Picture Organizations took matters directly into its own hands by adopting the report of a committee representing major church denominations as the basis for its own classification system. The service is similar to the Green Sheet, except that the Texas ratings include movie reviews to explain the categories into which films are pigeon-holed. A film classification law passed one house of the New York state legislature but not the other. The result was not viewed as a complete victory for anti-censorship forces, however, since it was considered certain that a similar measure will be introduced next year.

The Milwaukee chapter of the Wisconsin Civil Liberties Union condemned the role of the city's motion picture commission in refusing to allow a showing of *The Lovers*. The affiliate called the action prior restraint in violation of the First Amendment. The attack brought an angry denial from Milwaukee's Mayor, who argued that the commission "is not a censorship body. Somebody's got to scrutinize films before they are shown to the public," he added. The Massachusetts Civil Liberties Union tried to bury the phrase "banned in Boston" but failed, although the attempt won favorable press comment. The issue was touched off by the newly-appointed city censor, who deleted some dialogue and gestures from *Lock Up Your Daughters*, a London hit which folded in Boston. A protest by the Union affiliate brought a ruling from the city law department that the censor could continue to examine the content of films, plays and night club acts for obscenity. Not far from Boston is Taunton, Mass. where the Mayor has proudly

saved his community \$3,500 a year by acting as the city's film censor himself. Mayor Cleary said he doesn't see any of the films he condemns, but is guided by the listings of the National Legion of Decency.

BLACKLISTING. The Hollywood blacklist—the first formidable political checklist in the mass media—is easing. Two major independent producers, Stanley Kramer and Otto Preminger, publicly announced that they were hiring writers who had tangled in the past with the House Un-American Activities Committee. In addition, two major studios followed suit by announcing that they would give screen credit to writers previously blacklisted. The studios, Paramount and Universal-International, had previously followed the common Hollywood practice of buying scripts from blacklisted writers who submitted them under an assumed name. An exception to the trend was Frank Sinatra, who first announced he had hired Albert Maltz, one of the original “Hollywood Ten,” to do a screenplay and then said he had fired Maltz in deference to “the majority of American opinion.” Kramer’s decision to hire Nedrick Young was immediately assailed by the American Legion. But unlike past occasions when Hollywood bowed to the Legion pressure, Kramer declared that the Legion itself was “Un-American” when it seeks to “inflict their viewpoint on others.” The producer’s counter-attack was praised by the ACLU, which said that “by vigorously asserting the principle that an individual should be judged on the basis of his competence and not his political belief, you have affirmed a basic concept of American democracy which the American Legion has long forgotten.” The Legion, subsequently, said that it does not attempt to censor films nor to regulate the film industry’s employment, but merely tries to “ventilate the record” and supply information to the public. The screenwriter hired by Preminger was Dalton Trumbo, convicted for contempt of the House Un-American Activities Committee, who also will get screen credit from Universal-International for another movie. During Trumbo’s days in the underground of the blacklisted he wrote more than 30 films, one of which won an Academy Award.

PRESSURE GROUPS. The Legion of Decency, the Roman Catholic Church’s active watchdog of movies’ content, is continuing a public discussion of its principles and practices intended to clarify its role to Catholics and non-Catholics. (*See last year’s Annual Report, p. 23.*) At the same time, the Legion instituted a new category for films: “adult and not intended for teen-age audiences.” The Legion defines its view of film censorship as accepting the “principles of liberty and a minimal amount of legal restraint . . . The area of difference between the Legion and the (Motion Picture) Code is not in the area of theme because the Code can keep a picture moral; the difference is in treatment and this is an area of decency.” One Catholic spokesman, John E. Fitzgerald, amusement editor of a Catholic weekly, said that the esthetic judgement of film critics “makes the most sensible classifier of good and bad motion pictures.” He defended the right of private groups to classify films, but added that such classification can be binding only on specific groups—parents for their children, a church for its followers, etc. Another Catholic spokesman, J. D. Nicola, a lay member of the Legion’s board of consultants, said that the issues raised by “adult” films are

"too complex to believe that legal censorship, mass boycotts or Legion condemnations will provide the overnight answer." Such tactics, he said, "may create more problems than they solve." Despite the publication of such enlightened views, however, some local Catholic groups continue to follow practices other fellow religionists deplore. In Lawrence, Mass., for example, the Mayor and local exhibitors agreed that no movie house would show a film condemned by the Legion and in Delaware County, Pa., the local chapter of the ACLU of Pennsylvania strongly protested the cancellation of *The Lovers* after a local Catholic group threatened an indefinite boycott of the movie house. Protestant denominations are taking a closer look at the content of movies and television programs, but principally from the point of view of pressing the movie industry for stronger self-regulation. Rev. Dr. S. Franklin Mack, executive director of the Broadcasting and Film Commission of the National Council of Churches, defined the church's role as "not so much to get in and regulate, but to strengthen the hands of those . . . in the industry who are . . . aware of the need for integrity."

3. Radio and TV

EQUAL TIME. The 1960 Presidential campaign marked the first time in the nation's history that the candidates of both major parties met face-to-face in a series of "live" TV debates. While applauding the innovation as an effort to encourage more public discussion of national issues, the ACLU urged that stations be required to give minority parties reasonable and equitably-distributed opportunity to be heard. This altered the traditional ACLU position which had been that all political parties—major and minor—must be treated the same under the "equal time" Section 315 of the federal communications law.

The TV debates between the candidates were made possible by Congress' suspension of Section 315 for the 1960 campaign and only with respect to the Presidential and Vice-Presidential nominees. While the ACLU recognized the networks' argument that the large number of small parties who would claim equal time if the major party candidates were presented, has made it impractical in former campaigns to air the latter candidates, the ACLU opposed the suspension for a variety of reasons: under it the minor political parties are likely to get no time at all on the publicly-franchised air-waves and they will lack the legal recourse which they now have under Section 315; the suspension will, in effect, give the Democratic and Republican Parties a monopoly of the communications medium which reaches the greatest number of people and so deprive the public of its right under the First Amendment to hear a wide range of political views; the suspension of the equal time provision for one campaign may open the door for the all-time repeal of the safeguard in its present form, thus legislating a two-party monopoly of the air and endangering the democratic processes.

In its new policy statement proposing a revision, rather than a cancelling out of Section 315, the ACLU recommended that stations be required, as an affirmative obligation under their license to operate in the public interest, to make time available, on either a free or paid-for basis, to all legally-qualified candidates, and also that the networks be

required to grant some free time to all legally-qualified presidential candidates. In the past, under Section 315, broadcasters have been under no obligation to afford time to any political candidate, but have been required to allow equal time to opposing candidates if any single candidate was accorded air time. The ACLU would have the law changed so as to require each station "to afford reasonable opportunity for the use of its broadcasting facilities during the campaign for any public office of local, state or national importance," such opportunity to be afforded "equitably" to the candidates of the various parties, major and minor. The Union would continue the no-censorship clause governing political campaign material.

The Federal Communications Commission, for the first time, implemented the so-called "fair play" amendment to Section 315 exempting newscasts, news interviews, news documentaries and on-the-spot news events from the equal time clause. (*See last year's Annual Report, pp. 24-25.*) The FCC demanded to know why three Little Rock, Ark. television stations carried speeches by local Democratic candidates while the Republican National Convention was going on in Chicago. Station officials replied that they considered the local news more important.

DIVERSITY OF PROGRAMMING. The ACLU supported a measure that would give the FCC broader powers to promote balanced programming without imposing censorship of the airwaves. The law passed by the Congress gave the agency the discretion to grant licenses for a term less than three years. The new law also requires FCC approval before an applicant can withdraw because he has received a financial settlement from a competing applicant, and authorizes a system of fines as an alternative to the revocation of station licenses. The Union praised in particular a fourth provision of the statute which requires an applicant or a person filing for renewal of a license to give notice of his intention in the area to be served by the station. The new procedure should facilitate local hearings by the FCC to determine community sentiment. This change in the law coincided with a new FCC policy requiring applicants for new licenses or renewals to consult with community leaders on programming. "Pre-programming consultation . . .," the Union said, "will . . . make for the better-balanced, more widely-diversified programming to which the ACLU holds the people are entitled under the First Amendment" and the communication law.

In a year marked by prolonged investigation by Congress and the FCC of radio-TV problems, brought on by the TV quiz shows and payola scandals, the ACLU made clear the double-barrelled civil liberties issue: government agencies should not have the power to censor by adding or subtracting program content, but the FCC should "energetically exercise" its power to require the industry to provide the maximum possible range and balance in subject matter and treatment. In this connection, the Union congratulated the FCC on the establishment of a monitoring bureau to determine whether stations fulfill their pledge to operate in the "public interest, convenience and necessity."

A policy statement by the ACLU Board of Directors was aimed directly at the technical problems limiting the number of TV channels

now available to the public which thereby also limit diversity in programming. The statement proposed a gradual shift of the nation's television system to the 70 channels that would be available under an Ultra High Frequency transmission. Only 13 channels are now available to the public under the present Very High Frequency broadcasting system. In a letter to the FCC, the Union praised the initiation of an experimental research program to be carried on in New York City aimed at the improvement of UHF transmission and expressed confidence that the technical difficulties involved in the UHF change-over would be solved if the switch were made mandatory over a five-to-ten-year period, with the VHF system to be retained in the interim. The 70 UHF channels, said the ACLU, should be made available to all types of broadcasters—pay TV, commercial, educational and municipally-owned stations and others operated by non-profit corporations.

4. Access to Government News and Public Records

THE FEDERAL SCENE. The seesaw battle continued between newspapers and the Administration over how much government information the public has a right to know. There were gains and losses on both sides. A five-year study of government secrecy by a House subcommittee concluded that secrecy had grown despite a law passed in 1958 designed to increase the flow of information about official agencies. The tendency, said the report, is evident "from the White House down." The President gave the power to classify information to eight new executive agencies and removed the power from about 30 others. It was still impossible, however, for newsmen to obtain the complete list of which agencies had the power and which did not. The pressure of public opinion was demonstrated by the decision of the Senate to open its payroll accounts (as the House had done previously) after a Federal District Court had rejected a reporter's demand to see the records. The House declined, however, to reveal all the expense accounts of its members despite a newspaper series which documented extravagant charges to the taxpayers.

The ACLU backed an amendment to the Administrative Procedures Act to increase the amount of government news available to the public by making clear that the public information section of the Act does not provide statutory authority for withholding or restraining government information. The Union opposed, on due process grounds, a Senate bill which would permit inspection of all papers on file in federal courts, even those which have not been heard in pre-trial motions. The latter measure was prompted by a ruling of the Federal District Court in Detroit barring newspapers of that city from inspecting filings in civil suits when either party asks for it. The Union said that since the rule provides that the suppression automatically would be lifted when "some phase (of the action) shall be heard in open court, . . . the public's access to information about court proceedings is guaranteed." The ACLU said that on some occasions, such as divorce actions or commitment of the mentally ill, ". . . the subject matter of the pleadings present the danger of exposing individuals to public obloquy or scorn without a fair opportunity to meet the bare allegations. . . ."

IN THE STATES. Twenty of the 50 states have laws guaranteeing open meetings of government bodies and open records. Seven states have open meeting protections only and 12 have only open records guarantees. Thirteen states make no promises on either score.

Maine newspapers lost in their first test of the state's "right-to-know" law when the state Attorney General ruled that the Parole and Probation Board had a right to keep confidential the fact that a prisoner had rejoined society. The official made his decision on technical grounds, but the Board had argued that disclosure of a release could do great harm to the individual and little good to the community. The Chicago City Council reversed a long-standing rule and permitted radio and television coverage of its sessions. The Illinois affiliate of the ACLU supported the electronic coverage as a matter of press freedom—a right that has already been won in seven other cities. A precedent-making suit may be underway in the Chicago Federal District Court. A reporter and a photographer of the *Chicago Tribune* are suing three policemen and a city commissioner of nearby Aurora after newsmen and cameramen tried to cover a meeting of the city council. A melee ensued.

ACADEMIC FREEDOM

1. Federal, State and Local Issues

THE NATIONAL SCENE. Following mounting objections by leading universities to the provision of the National Defense Education Act which requires students receiving government financial aid to sign an affidavit forswearing membership in any organization advocating violent overthrow of the government, (*See last year's Annual Report, pp. 29-30.*), the Senate suddenly passed and sent to the House a "compromise" measure which eliminated the disclaimer affidavit. The ACLU Board of Directors, which vigorously supported repeal of the affidavit requirement, opposed the compromise amendment because it too, in effect, subjected loan applicants to a political test. Left unchanged was the law's requirement that any student seeking to qualify for a loan must take an oath of allegiance. This, the Union said, was "unnecessary and discriminatory," though less invidious than the disclaimer affidavit. The latter, the ACLU declared, is in violation of the First Amendment in that it runs counter to provisions for freedom of thought, speech and association, "and the general belief of our citizens that the national government shall not interfere in the management of schools and the right of teachers and students to seek the truth." The amendment approved by the Senate, but not passed upon by the House before adjournment, also provided that no person may apply for or get a loan while he is a member of the Communist Party or any other organization having for one of its purposes the seizure of the government through force and violence; that no person who has been a member of such an organization within five years shall seek or receive aid unless he files a sworn statement of the facts concerning his membership; and that anyone who violates either of these provisions shall be fined not more than \$10,000 or imprisoned not more than five years, or both. At the time the Senate acted, 22 institutions, including Harvard, Yale and

Princeton, had withdrawn from the NDEA program in protest against the disclaimer affidavit, while an additional 83 had publicized their disapproval of it. Despite this opposition, the disclaimer affidavit is still in the law. Dr. H. Bentley Glass, professor of biology at Johns Hopkins University and former president of the American Association of University Professors, condemned all loyalty oaths in refusing to serve on the newly-created Radiation Control Advisory Board of Maryland. A second attack on loyalty oaths was delivered by Jack E. Holman, Jr., director of the American Freedoms Council, a new group formed to encourage interest in civil liberties among Roman Catholics. In a letter to the *American Legion Magazine*, Holman disputed the Legion's approval of student loyalty oaths and said "The practice is futile and unwarranted. It is obviously a contradiction to seek to safeguard freedom by lessening freedom."

A report of the ACLU's Academic Freedom Committee on the effects of multi-billion dollar government and private grants for research projects has stirred wide interest in the scholarly community. "Is it in the interest of society to permit the universities to lose a large measure of their authority in shaping the development of their own affairs?" asked the report. The answer, the study said, could best be found through an "objective review of the situation on a nation-wide scale." The Committee's exhaustive comment raised an issue that had been perturbing the campuses for some time. Harvard's dean of admissions and financial aid warned that increasing federal grants carry with them the danger that they will "limit freedom of inquiry and expression." He said "The potential for evil as well as good is enormous." Five months later Harvard initiated a special research project to determine the effect increasing use of federal funds has had on its programs.

The ACLU estimated that two-thirds of the money for all research and development carried out in schools and universities is contributed by the government and that the figure for the physical sciences adds up to 90 per cent, including private foundation and industry allotments. Acknowledging that sponsored research has made "tremendous contributions to American scholarship," the Union statement cautioned that "the dangers of control through subsidy are imminent. . . . We should face squarely the question as to whether we are prepared to break with the long-established tradition which entrusts to universities a large measure of autonomy in their proper functions of education and research—whether we are prepared to replace a significant fraction of this autonomy by a patchwork control exerted by a variety of bureaus with widely differing aims and interests." Among the specific problems involving academic freedom resulting from heavy subsidization, the ACLU listed the following: The necessity of obtaining security clearances for faculty members; the neglect of the humanities and the social sciences in favor of the physical sciences; the burgeoning of so-called programmatic team research at the expense of the highly individualistic investigator; the magnetic influence over even greater funds exerted by well-established institutions, creating even greater difficulties for less-developed schools with younger and less-famous faculty members. Not long after the Union's Academic Freedom Committee reported its findings and conclusions, the government announced an experimental

plan to change a 20-year-old system of allotting funds for science research. The National Science Foundation, which allots more than \$58,000,000 to 230 institutions, said it would give universities five per cent of their previous year's grant to use as they see fit on a non-strings-attached basis.

LOYALTY AND SECURITY. The Pennsylvania Supreme Court ordered the reinstatement of four Philadelphia school teachers dismissed by the Board of Public Education in 1954 for declining to answer questions posed by the House Un-American Activities Committee in the fall of 1953 concerning alleged Communist activities. Three of the teachers had relied on the Fifth Amendment privilege against self-incrimination—the Greater Philadelphia Branch of the ACLU had filed a brief with the court on behalf of the trio—and a fourth teacher based her refusal on First Amendment protections. The majority opinion of the court agreed with the contention of the Union affiliate that “a discharge based solely upon the exercise of the privilege against self-incrimination . . . is either an effort to penalize the use of the privilege . . . or it is an effort to punish the guilt which the discharging authorities have inferred from its use. Neither of these motivations from the standpoint of substantive due process is constitutionally permissible.” The court declared: “. . . appellants’ dismissals . . . because they refused to answer certain questions of the congressional committee . . . deprived them of liberty and property without due process of law and, at the same time, worked abridgement by State action of the same constitutional privilege, all in violation of the Fourteenth Amendment.” The court said further that the Fifth Amendment plea “is not relevant as evidence of incompetency”—the technical charge on which the teachers were dismissed.

A similar ruling by the New Jersey Supreme Court reversed the firing, for the second time, of Robert Lowenstein, a Newark school teacher who was ousted on charges of conduct unbecoming a teacher for refusing in 1955 to answer questions of the HUAC. (*See last year's Annual Report, p. 32.*) The unanimous verdict said that the Board of Education must determine whether Lowenstein is fit to teach on the basis of his current beliefs about Communist ideals and democratic principles. Only if information about his past conduct suggests that his answers are less than truthful can his past associations be studied, the court said. By a 5-4 vote the Board refused to reemploy Lowenstein, but another appeal will be taken.

In a move that could eventually decide the validity of Washington state's loyalty oaths for public employees, the U.S. Supreme Court sent back to the state courts the appeal of Howard L. Nostrand and Max Savelle. The two University of Washington professors have been aided throughout their five-year case by the ACLU of Washington. (*See last year's Annual Report, pp. 86-87.*) The court explained its refusal to act on the case by pointing out that the state Supreme Court had not passed on whether an employee who refused to take the oath would get a hearing before dismissal to defend or explain his act.

New York, like Pennsylvania, New Jersey, California and other states, has also conducted loyalty investigations of teachers on the

public payroll. In New York City, an impartial referee has recommended to the Board of Education the dismissal of seven teachers accused of lying about their past Communist Party membership in applications for licenses and promotions. The recommendation, however, is subject to modification by the Board, for whom the cases represented the last phase of an investigation launched in 1955. (*See last year's Annual Report, p. 32.*) The original charges against the teachers were dropped by the Board after the state's highest court had upheld the State Commissioner of Education's decision that teachers could not be compelled to disclose the names of former Communist colleagues. The current set of charges was then drawn up. Students also figured in politically-sensitive developments in New York City. There five students refused to take the oath of allegiance required of all academic high school graduates. At the insistence of the NYCLU the rule was waived in their cases. The Board of Education is considering, as a substitute, an Ephebic pledge of devotion to the city.

The ACLU's opposition to political tests for teacher employment, whether the test seeks to eliminate Fascists or Communists from the schools, was again voiced in an unusual case involving an American-born college teacher who renounced his citizenship on the eve of World War II and went to work in a Nazi radio station. The professor, Edward V. Sittler, resigned from Long Island University's C.W. Post College after publication of his past political record stirred a major controversy. At no time in the dispute, however, was criticism made of Sittler's classroom behavior. The New York Civil Liberties Union and the ACLU's Academic Freedom Committee issued a joint statement on the case re-emphasizing the Union's basic philosophy: "In the absence of substantial evidence of perversion of the academic process, the ACLU opposes the prohibition in educational employment of any person based even in part on his views or associations, such as Communist or Fascist. . . . The central issue in considering a teacher's fitness is his own performance in his subject and his relationship to his students."

A Colorado school teacher, Robert Lehrer, also refused to answer questions of the HUAC and was temporarily taken off his teaching assignment. When Lehrer later signed the state loyalty oath required of teachers he was permitted to return to his fourth and fifth grade pupils. The Florida Civil Liberties Union has intervened in a court test of the state loyalty oath prompted by the refusal of a high school teacher with nine years' tenure to sign the oath. The Illinois Division, ACLU took pleasure in the decision of the Chicago school board no longer to ask applicants to list their "un-American activities."

NON-POLITICAL ISSUES. The ACLU of Northern California is supporting the appeal of a social studies teacher in a junior college who was fired after writing five letters-to-the-editor in the local newspaper that were pungently critical of public education in Lassen County and also assailed bureaucracy in the California Teachers Association.

The right to express an opinion on free love was at issue in the case of assistant professor Leo Koch of the University of Illinois, who was dismissed for publicly advocating pre-marital sexual relations for college

students "sufficiently mature to engage in them without social consequences and without violating their moral codes." Koch's views were published in the college newspaper as part of a discussion on sexual ethics. The Illinois Division, ACLU, which is supporting the teacher's appeal of his dismissal, charged that the university committed "a serious breach of academic freedom" by violating a faculty member's right to engage in public discussion on any topic. Koch's views, the affiliate declared, were expressed without "vulgarity or sensationalism" and were a serious contribution on a matter of "genuine concern."

Two young instructors at Kentucky State College were ousted for helping students plan strategy in demonstrating against student rules. The Kentucky Civil Liberties Union said the firings violated due process protections because the teachers were not given 10 days' notice in writing and a hearing by the college governing board, as provided by state law. The university president claimed that the two were only temporary employees and so were not covered by the statute.

STUDENT RIGHTS. The Administration and student body of the University of California continued to remain at odds over a number of free speech issues. (*See last year's Annual Report, p. 33.*) The Administration finally permitted student groups and publications to take public stands on off-campus issues, but refused the student government organization the right to do so on the ground that membership in the school-wide group was compulsory. The ACLU of Northern California objected to this restriction as well as to others limiting the rights of students to be heard on controversial subjects.

2. Pressures Arising from the Integration Conflict

Repercussions from the wave of lunch counter sit-in demonstrations throughout the South were felt immediately on the campus—even in colleges north of the Mason-Dixon line. The movement was born among Negro college students and it was against them and their allies among the faculty that state authorities and college officials took punitive action which violated academic freedom. The ACLU strongly supported the peaceful protests against lunch counter discrimination and condemned expulsions of students and dismissal of faculty members who joined with them in one of the most remarkable and effective mass protests in recent years. (*For a full report of ACLU action on the sit-ins, see p. 47.*) In Alabama, for example, one reaction of Gov. John Patterson to the sit-ins was to fire Dr. Lawrence D. Reddick, chairman of the history department of Alabama State College, a Negro school. Previously, the State Board of Education publicly called for the firing of 11 faculty members who had supported nine students expelled for their role in the demonstrations. In two telegrams to Patterson, the ACLU first called on the Governor to assure the faculty members that they would be retained "despite the bitter feeling about the race segregation issue," and later protested his firing of Reddick on the charge that the latter had Communist associations. Since no charge was brought that Dr. Reddick had misused his academic position and no hearing was held, the Union said to the governor, "We fear that you and the state Board of Education have fallen into the error of equating Communism

with the indigenous Southern movement to attain racial equality by non-violent means. A loose charge of this nature can only further excite public feeling and impede rational consideration of the ways and means by which a minority group can achieve constitutional rights."

A University of Mississippi law professor who taught that the U.S. Supreme Court decision on desegregation was the law of the land was a target of a state representative who also cited the professor's membership in the ACLU as reason why he should be ousted. The teacher, William P. Murphy, struck back hard, declaring that, "I do not intend to give up my membership in the ACLU because of attempted political intimidation. I do not intend to tailor my teaching to satisfy any cult of crackpots, fanatics and willful ignoramuses." A bitter dispute rocked the faculty of the Vanderbilt University Divinity School over the expulsion, for his role in sit-in demonstrations, of the Rev. James M. Lawson, a graduate student. The dean of the Divinity School resigned, as did eleven of the school's faculty members; of these, nine withdrew their resignations when the university offered to allow Lawson, who had entered Boston University, to return to Vanderbilt to take examinations in order to earn a Vanderbilt degree. An Arkansas law requiring public school teachers to list all organizations to which they belonged or contributed during the last five years has been accepted for review by the U.S. Supreme Court. A federal court has already struck down another Arkansas law which barred employment to any teacher who was a member of the NAACP.

A Tennessee Circuit Court judge has refused a new trial to the Highlander Folk School, thus clearing the way for an appeal to the state Supreme Court of a ruling that integration in private schools in the state is unlawful. (*See last year's Annual Report, p. 35.*)

RELIGION

1. Church and State: Education

RELEASED TIME. The state Supreme Courts of Washington and Oregon upheld the validity of released time programs for religious education. The Washington court, dealing with the constitutional issues raised by a group of Spokane parents, said that while several aspects of the program were improper, it did not invade federal and state guarantees for the separation of church and state. The court did object, however, to the school distribution of consent cards for parents' signatures as well as to announcements by teachers or representatives of religious groups. This, the opinion said, makes of the children "a 'captive audience' to participate in a religious program" contrary to state constitutional protections barring public schools from sectarian influence. A friend-of-the-court brief, submitted by the ACLU of Washington State, had dwelt on the fact that since the released time program is conducted by the Spokane Council of Churches and thus, in effect, is restricted to Protestant children, it has segregated non-Protestant children in violation of the Fourteenth Amendment. The court rejected this argument. The Oregon Supreme Court verdict, which reversed a lower court ruling, was restricted to the technical

issue of whether the statute was sufficiently clear in naming the authority responsible for releasing the children or to provide who would be punished for violations. The state high court found the statute sufficiently clear on these points.

BIBLE READING AND RELIGIOUS TEACHING. A special three-judge federal court has refused to set aside its order banning Bible reading in the public schools of Pennsylvania despite a change in the state law allowing children to be excused from the Bible reading on the written request of a parent. The Greater Philadelphia Branch of the ACLU supported the original test case, the first in the federal courts. (*See last year's Annual Report, p. 38.*) This case, which was brought by Mr. and Mrs. Edward Schempp, was appealed to the U.S. Supreme Court which sent it back for further hearing.

One of the most closely watched court cases in recent years was brought by the Florida Civil Liberties Union in attacking a wide range of religious practices which have long been a fixture in the state's public schools. (*See last year's Annual Report, p. 37.*) These include Bible reading, use of school buildings for religious instruction after hours, and religious pageants. The FCLU is backing Harlow Chamberlain, an agnostic, in his suit, which has been joined by three Jewish parents (backed by the American Jewish Congress) and one Unitarian. Although the Dade (Miami) County school board passed a resolution making participation in religious practices voluntary, the parents contend that social pressures compel their children to attend. The Greater Philadelphia Branch of the Union requested the State Superintendent of Public Instruction to instruct all local officials not to permit baccalaureate services in public schools.

PAROCHIAL SCHOOL AID. The recurrent debate over state aid for transportation of private and parochial school students has been renewed in several states. The Connecticut Supreme Court upheld the state law giving towns the local option of whether to pay for non-profit private school bus transportation entirely out of local taxes. The majority opinion said the law "comes up to but does not reach the 'wall of separation' between church and state" and primarily serves "the public health, safety and welfare. It aids the parents in sending their children to a school of their choice, as is their right," the opinion added. A new law passed by the New York state legislature may eventually lead to the U.S. Supreme Court. The law guarantees private and parochial school pupils the same free transportation provided for public school children. The New York Civil Liberties Union is already backing an appeal in the state Supreme Court from the State Education Commissioner's ruling that voters of a school district can authorize travel for students no matter what the distance is. In the current suit a Long Island taxpayer is contesting the results of a voters' referendum which subsidized travel expenses for private and parochial school pupils who in some cases have chosen to go to schools 35 miles away. The affiliate said that the Constitution "requires that a limit be put on the transportation to parochial schools" and that in the current case, the distance infringes the separation of church and state demanded in the First and Fourteenth Amendments. The Maine legislature killed a bill providing

for local option on the same issue a year after the state Supreme Court ruled that existing law did not allow public funds to be spent on transportation of parochial school pupils. A Minnesota state legislator sought to win such aid for such students but the move was vigorously opposed by Protestants, Jews, non-church affiliated people and the ACLU's Minnesota affiliate. The question of bus transportation for students in sectarian schools has been a lively state issue and probably will remain so since the U.S. Supreme Court ruled in 1947 in the *Everson* case that no federal constitutional issue was raised by the free travel arrangements. The high court left open, however, issues of legality under state constitutions and matters of administrative regulation.

The *Everson* case was one of two U.S. Supreme Court precedents cited by an Oregon Circuit Court judge in upholding the constitutionality of a state law requiring local school boards to furnish free textbooks at public expense to parochial school children attending qualified institutions. The decision was unusual in that the judge added his personal comment that he "emphatically . . . dissents from a decision I am required to make as a result of the majority opinion of the U.S. Supreme Court." The case will be carried to the high court, however, by the ACLU of Oregon, which supported the suit of three Oregon City taxpayers. Answering the affiliate's contention that the *Everson* case was not binding on the textbook test, Judge Homan pointed out that "transportation to a parochial school is a direct aid to the religion that is taught there, while the most that can be said of secular textbooks is that they are an indirect aid to religion in that they help the operation of the educational process which is used for religious purposes. If direct aid is permissible, an indirect one must be. In principle, I cannot distinguish the decision in the *Everson* case from the present one."

In other cases involving public aid to parochial schools, the Greater Philadelphia Branch of the ACLU endorsed the use of public money to supply health services on the grounds that inferior health services would constitute discrimination because of religion, thereby inhibiting religious liberty; the Civil Liberties Union of Massachusetts opposed on First Amendment grounds an unsuccessful bill proposing state payment of tuition to parents whose children attend non-public schools.

COMPULSORY EDUCATION. Strict religious observance by the children of Amish parents and members of other religious sects continued to cause friction with state school officials over the issue of compulsory education. The ACLU recognizes the state's right to impose minimum educational standards but believes that every effort should be made to safeguard religious liberty of dissenters. The mediatory role of Union affiliates in York and Lancaster counties in Pennsylvania, for example, helped to settle a heated controversy between Amish parents and state officials. The state had threatened to prosecute Amish parents who refused to admit their children to the "worldly" atmosphere of a new \$2,000,000 school, but the threat was dropped when the Amish agreed to send their children to another public school or to open a parochial school that meets the state's standards. The Indiana Civil Liberties Union offered help to the parents of Amish children in Decatur who were declared "juvenile delinquents" by a court and whom the

state threatened to place in foster homes for failure to attend public school. The sect's own school failed to meet state requirements.

2. Church and State: The General Public

"BLUE LAWS." The U.S. Supreme Court considered Sunday "blue laws" for the first time since the turn of the century, taking up federal court suits in Maryland, Massachusetts and Pennsylvania. Approximately 35 states now have laws curtailing work and business on Sunday. A conflict between Federal District Courts in Massachusetts and Pennsylvania may have encouraged the high court, after 59 years, to review the problem even though it refused last year to hear the appeal from an Ohio "blue law" conviction. (*See last year's Annual Report, pp. 41-42.*)

Seven months after a special three-judge federal court ruled that the Massachusetts Lord's Day Act, dating back to colonial times, violated constitutional rights by favoring one religion over another (*See last year's Annual Report, p. 42.*), another three-judge federal court in Philadelphia upheld Pennsylvania's Sunday closing law in denying an injunction sought by Two Guys From Harrison, Inc., a highway discount house with a branch also in Glen Burnie, Md. The store owners claimed that since other retail firms were permitted to sell goods on Sunday, they suffered discrimination. The state was upheld in its argument that since it could properly prescribe one day of rest each week for each citizen, it could choose the day favored by the majority—Sunday. In a brief filed with the U.S. Supreme Court, the ACLU declared: "The automobile age, the distance of shopping centers from concentrated areas of population, the demands of minorities to observe their own days of rest for purposes of religious worship, the need of the public for manifold forms of recreation and entertainment on their day of rest: all these call upon the judicial arm of our government to protect the right of all men to choose their form of rest and worship and also the time of rest and worship so long as it does not interfere with the right of others to enjoy their days of rest and worship. . . ." New Jersey, another state in which arrests for "blue law" violations have spurred public debate, was upheld on the constitutionality of its statute by the state Supreme Court.

PLANNED PARENTHOOD. The U.S. Supreme Court heard a challenge of Connecticut's 80-year-old anti-birth control law which makes it illegal to prescribe and use contraceptive devices. The ACLU and the Connecticut Civil Liberties Union filed a friend-of-the-court brief supporting the test of the state law. Previously, the CCLU had filed a brief with the state Supreme Court of Errors which upheld the constitutionality of the law while noting that "the claims of infringement of constitutional rights are presented more dramatically than they have ever been before." Still, the court added, "(we) cannot abrogate a clear expression of legislative intent, particularly when the legislature has consistently refused to rewrite the existing legislation." (*See last year's Annual Report, pp. 42-43.*) The ACLU opposes state laws prohibiting the sale and use of contraceptive devices as a violation of the due process guarantees of the Fourteenth Amendment and the "right reserved to the people by the Ninth and Tenth Amendments to live,

enjoy liberty and pursue happiness free of unnecessary government restraint." In Arizona the Planned Parenthood Committee of Phoenix and the Arizona Civil Liberties Union have asked a County Superior Court to rule on the constitutionality of a state law prohibiting the dissemination of birth control information. The ACLU affiliate's suit contends that the ban violates free speech and due process protections.

OTHER ISSUES. The Maryland Court of Appeals, the state's highest court, has refused to license a notary public because he refused to take an oath that he believes in God. The ACLU backed the appeal of avowed atheist Roy R. Torcaso to the U.S. Supreme Court on the grounds that a state does not have the power to inquire into a man's religious views and that a man has the right to disbelieve without suffering discrimination. The Maryland court declared that ". . . under our Constitution disbelief in a Supreme Being, and the denial of any moral accountability for conduct, not only renders a person incompetent to hold public office, but to give testimony, or to serve as a juror. The historical record makes it clear that religious toleration . . . was never thought to encompass the ungodly."

3. Problems of Conscience and Religious Freedom

MILITARY SERVICE AND ROTC. The Universities of Maryland and Illinois reversed long-standing rules and permitted conscientious objectors to be exempt from ROTC programs. The switch left the University of California as the only college which denies exemptions to C.O.'s. The Universities of Rutgers, Utah State and Wisconsin have voluntary ROTC programs. While the old policy prevailed at the University of Maryland one student was suspended for refusing to continue military training on grounds of conscience and two others who served their civilian draft duty as C.O.'s were denied exemptions from ROTC and brought suit against the school. The pair, Kenneth Hanauer and Jack Crabhill, took their case to the U.S. Supreme Court but were denied review.

CITIZENSHIP. An English citizen who became a resident alien in the United States in 1949 and served in the Army has been denied his naturalization petition on the grounds that his conscientious objection claim was based on "internationalist" rather than religious beliefs. The government said he was unable to take the oath of allegiance and that he had failed to establish that he was attached to the principles of the Constitution. The petitioner, 31-year-old Eric Victor Levy, appealed the finding of the naturalization examiner to the Federal District Court in Los Angeles. A Quaker C.O. who received a "loss of nationality" certificate in 1954 was able to return to this country after a review board found that he had not voluntarily expatriated himself by failing to register for the draft.

OTHER CASES. ACLU executive director Patrick Murphy Malin urged the reinstatement of William R. Martin, an aide to the Senate Republican Minority, who was fired because he urged Washington high school students to register as conscientious objectors when they are

called to the draft. In a letter to Mark Trice, Secretary for the Minority, Malin said that Martin's expression of opinion "was hardly relevant to (his) administrative duties and it would seem that he was punished for speaking out on a controversial subject." Although Martin's dismissal does not violate any law, the ACLU official added, "we believe it does infringe on the spirit of the First Amendment . . . and we are particularly distressed that an important arm of the Senate has penalized an individual for exercising his right of free speech." Martin, a political science student at George Washington University, was a member of the Friends Meeting of Washington and chairman of the Washington Young Friends. The ACLU of Northern California and San Francisco school officials have agreed that students who have conscientious objections will be exempted from saluting the flag or reciting the pledge of allegiance. Previously, city school regulations exempted only students who claimed a "conscientious *religious* objection." The ACLU affiliate pointed out that the word "religious" has been dropped, in conformity with a 1943 U.S. Supreme Court decision which held that no citizen could be required to affirm any belief for any reason whatsoever. The Iowa Senate voted to allow C.O.'s to hold civil service positions, revoking a state law that had been on the books since 1917.

GENERAL FREEDOM OF SPEECH AND ASSOCIATION

1. Right of Movement

PASSPORTS. Ever since the U.S. Supreme Court ruled in June, 1958 that Congress had not authorized the State Department to withhold passports on grounds of suspected Communist affiliation or to ask applicants questions about their political beliefs (*See 1957-1958 Annual Report, pp. 35-36.*), each congressional session has been the scene of attempts to override the high court decision despite the fact that there has been no demonstrable need for broader government powers. The 86th Congress was no exception. After the House adopted a less stringent measure, the Senate Judiciary Committee approved an omnibus security bill which featured a restrictive passport section but the full Senate did not act on it. The bill would have forbid issuance of passports to persons who had been members of the Communist Party or supporters of the international Communist movement since Jan. 1, 1951; permitted the Secretary of State to place geographical limitations on travel; required an oath to give the State Department "a full and accurate report concerning the places visited;" allowed the denial of passports on the basis of confidential information; and granted exclusive passport review power to the State Department.

The ACLU opposed this proposed legislation, asserting that a citizen has the right to travel as part of his personal freedom and can be denied a passport only if he is involved in a court action that imposes a legal obligation to remain in this country. The Union also protested the power of the Secretary of State to deny passports to Communists or others simply because he feels that their presence abroad would be

harmful to the security of the United States. If a person has committed a crime, the Union believes, he should be arrested and charged, not deprived of his liberty by administrative fiat. Moreover, where there has been a delay or refusal by authorities to issue a passport, the applicant is entitled to a prompt due process hearing including full disclosure of the facts—through confrontation and cross-examination—on which the administrative action was based.

WORTHY CASE. The U.S. Supreme Court refused to review the appeal of newsman William Worthy, whose case had been supported by the ACLU for four years, in a direct challenge of the constitutionality of the government's right to limit the peace-time travel of its citizens. In commenting on the high court's refusal to hear the appeal from the U.S. Court of Appeals in Washington, D.C., ACLU executive director Patrick Murphy Malin said that the Worthy case had "particular significance because of the effect such a ban has on the right to receive information from foreign correspondents." Malin added that the refusal to review left undisturbed the lower court's finding that the Secretary of State is authorized, under the President's power to regulate foreign affairs, to restrict travel to areas he considers harmful to United States interests. (*See last year's Annual Report, p. 48.*)

2. The Vote: Minority Parties and the Right to Franchise

REAPPORTIONMENT. The U.S. Supreme Court accepted for review a citizen's suit to force reapportionment of the Tennessee legislature, encouraging hopes that the high court will act on a growing number of such cases that have been thrown out of lower federal courts on the basis of the high court's 1946 decision that reapportionment is a "political" matter and therefore not subject to judicial review. A three-judge federal court in Tennessee, for example, dismissed the suit saying that it had no right to intervene while at the same time acknowledging that a "clear violation" of the federal constitution was involved. The ACLU and several of its affiliates, especially in Minnesota and Michigan, are taking an active role in pressing for equitable representation of voting rights.

The Tennessee suit was based on the fact that although the state constitution calls for reapportioning the voting districts after each federal census, no such action has been taken by the legislature since 1901. Basing its claim on the grounds that the present "inequitable" distribution of seats deprives them of equal protection of the law under the Fourteenth Amendment, the citizens' group started federal court action to force reapportionment. The group called for election of the next legislature at-large by voters generally rather than by districts, or by temporarily apportioned districts set by the Federal District Court. The court, however, held that to grant the petition would result "in a destruction of the state government itself, since the *de facto* doctrine would not be applicable to maintain the present members of the legislature in office and there would be no prior valid apportionment act to fall back upon."

A similar suit in Minnesota, supported by the Minnesota Branch of

the ACLU, finally brought some improvement in state re-districting in 1959, but the affiliate is strongly opposing a constitutional amendment which would take effect after the 1970 census. The Minnesota Branch said that while the principle of equality is observed in allocating House seats, it is completely abandoned in the Senate.

The Metropolitan Detroit Branch of the ACLU also actively took part in an attempt to win a change in determining state Senate districts. In a brief before the state Supreme Court on behalf of August Scholle, president of the state AFL-CIO, the Union affiliate anticipated reliance on the U.S. Supreme Court decision of 1946 by declaring: "We believe . . . that any court . . . may properly and should exercise its jurisdiction to protect important constitutional rights even though they arise in a 'political' context. In a democratic society," continued the brief, "every citizen should have a right to vote and the votes of all citizens should be of equal value. The Michigan senatorial districts . . . arbitrarily give citizens in some districts votes of one-twelfth the value of those of citizens in other districts. . . . Disfranchisement by dilution has resulted in the vote being weighted so heavily in favor of the rural areas that in effect there exist in Michigan two classes of voters—first and second. We have an 'Alice in Wonderland' situation where the minority of the voters has been accorded first class citizenship and the majority has been accorded second class citizenship. . . ." The Michigan Supreme Court, by a 5-3 vote, disagreed with the Detroit affiliate's position. The high court ruled, in line with the U.S. Supreme Court's reasoning, that the malapportionment issue is "political" and not within its purview. An appeal is now before the U.S. Supreme Court.

The highest court of another state, New Jersey, squarely met the issue raised by the inaction of the state legislature in facing changing population distribution. "If by reason of time and changing conditions," said the state Supreme Court in a unanimous verdict, "the reapportionment statute no longer serves its original purpose of securing to the voter the full constitutional value of his franchise, and the legislative branch fails to take appropriate restorative action, the doors of the courts must be open to him. The lawmaking body cannot by inaction alter the constitutional system under which it has its own existence." The court said the legislature must act by the 1961 primaries.

Home rule advocates in Washington, D.C. scored their first victory when Congress passed a bill amending the Constitution to allow residents of the nation's capital to vote in Presidential elections. The amendment must be approved by two-thirds of the states.

MINORITY PARTIES. The apparently unintentional omission of a petition section from Minnesota's recodified election laws has not infringed on the right of minority parties to nominate candidates for public office, according to the state Attorney General. The missing section, which had been included in past state election laws, required minority parties to submit a petition signed by 2,000 persons to insure the right of a party to appear on the ballot. The danger that the omission might be used to block the inclusion of minority parties on the ballot had been brought to the attention of the Minnesota Branch of the ACLU by the Socialist Labor Party. The Maryland Branch of the

ACLU lost an appeal in the Baltimore City Criminal Court on behalf of a substitute school teacher who was given the choice of resigning or being fired after he was arrested by police on a disorderly conduct charge. The incident arose when the teacher was attacked and heckled by a crowd of high school students for selling a Socialist Party newspaper on the sidewalk.

3. Right of Assembly in Public Facilities

ROCKWELL CASE. . . . "No danger flowing from speech can be deemed clear and present, unless the incidents of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. . . ." Thus wrote U.S. Supreme Court Justice Louis D. Brandeis in 1927 and the words have remained as guideposts for the ACLU in defending the right of free speech for spokesmen of unpopular and even despicable causes. The Union's position has been stated many times on behalf of many controversial speakers—Communists and Fascists, integrationists and segregationists—but in recent years few incidents have created a public and emotional furor to match the case of George Lincoln Rockwell, self-styled leader of a band of 30 men who call themselves the American Nazi Party.

The ACLU and the New York Civil Liberties Union, although expressing strong opposition to Rockwell's anti-Semitic, anti-Negro views, is supporting his right to be heard in a public park in New York City. A Parks Department permit for the meeting, scheduled for July 4, was refused by Mayor Wagner. The Mayor's refusal to grant the permit was based on the assertion that to do so would be "an invitation to riot and disorder from a half-penny Hitler," although the Police Department had previously declared that it could furnish the necessary protection. Criticizing the Mayor and several organizations which had sought to bar the domestic Nazi from speaking, the NYCLU declared: "While recognizing the strong emotional feelings on the part of many New Yorkers towards Rockwell's views, the NYCLU does not believe that a city official should precensor any speaker. In the Union's view, speech can be limited only when a speaker urges immediate violent action and there is a real danger that his followers will act then and there on his incitement. This 'clear and present danger' limitation applies only to violence urged by the speaker. It does not apply to threats of violence by his opponents, (or even actual attempts to carry out such threats), although, of course, opponents of the speaker have every right . . . to peacefully express their views."

The NYCLU pointed out that unless the right of "provocative" speech is upheld, even for white supremacists, "it cannot be defended for other persons who advocate policies with which the democratic-minded members of the community agree—for example the freedom of speech of the NAACP and the 'sit-in' students." The NYCLU highlighted the comparison by underscoring the fact that both Mayor Wagner and Governor Faubus acted under the mere "threat" of mob action. "In both cases," the NYCLU said, "although the local police force said it could handle the situation, the pressure of the mob won out." The affiliate's forthright stand in the Rockwell case was supported over-

whelmingly by the local press and by most newspapers who commented on the affair throughout the country. "Rockwell is not going to shake the foundations of this Republic," noted *The New York Times*. "If he were left quietly to speak his piece, however revolting and abominable it is, he would create no impact. It is only when he or his henchmen are throttled, or physically attacked as one of them finally was in Washington, that they achieve the attention they crave, and we begin to chip away at the structure of the free and liberal society in which all of us believe—all but the Rockwells, the extremists of Right and Left." In the first round of court action, a New York state Supreme Court judge ruled that "self-confessed advocates of violence" are not entitled to free speech protections of the Bill of Rights. The decision will be appealed.

Before the legal battle opened in New York, the ACLU was involved in a previous defense of Rockwell in Washington, D.C. on disorderly conduct charges sparked by a scuffle when an irate bystander tried to grab a pile of Rockwell's handbills. The literature advocated the forced resettlement of Negroes in Africa and urged the liquidation of Jews. In a memorandum explaining its intervention, the Union said that it regarded the views contained in the pamphlet abhorrent and that it understood the feelings of those who tried to put an end to its distribution. But, added the Union, "to condone such action would leave free speech completely at the mercy of individuals to whom the ideas expressed are repugnant." The charges against a Rockwell cohort and the bystander were dismissed.

The Rockwell case arose while memories were still fresh with an outbreak of anti-Semitism in this country and abroad that expressed itself chiefly in the defacement of synagogues by painting swastikas on the walls. The daubings of synagogues were not defensible, the ACLU said. "Such action steps over a line . . . the line between speech and direct action," said ACLU executive director Patrick Murphy Malin. "And the law (against attacking persons or property) can be applied when such action is taken—whether by boys defacing a Jewish synagogue in New Haven or men bombing a Negro leader's home in Alabama."

PUBLIC MEETINGS: The protests of the ACLU of Northern California were sustained when the City Attorney of San Francisco ruled that regulations limiting the use of Union Square park "to projects of significant civic or national importance" were unconstitutional. The regulations also sought to bar the use of the park "for political or sectarian religious purposes." The affiliate said the rules were discriminatory and violated freedom of speech. At the request of the Greater Philadelphia Branch of the ACLU, the Police Department issued a supplemental directive which made clear the right of every citizen "to make a speech on any lawful subject he chooses to a public gathering" without a permit. The request was made after police interfered with a pacifist demonstration.

USE OF PUBLIC SCHOOLS. The California Supreme Court granted an appeal by the ACLU of Southern California in two test cases

that may decide the constitutionality of requiring a "non-disloyalty" oath from groups seeking to use public high schools. (*See last year's Annual Report, p. 51.*) After winning an early legal round, the affiliate was set back in the District Court of Appeals which upheld the oath requirement. "The restriction is slight," said the court, "and the danger is great. . . . If the state cannot go at least this far in protecting its own interest, it is powerless to act in any effective manner." The cities involved in the suit are Los Angeles and San Diego. In the latter city folk singer Pete Seeger performed in a public high school without having to sign a loyalty oath. The performance took place less than 10 hours after Seeger appeared before a Superior Court judge with attorneys of the affiliate. The judge ruled that school authorities had no power to impose the oath since Seeger's business manager has already signed the oath and other contractual agreements must be met.

OTHER CASES. A Federal District Court judge agreed with the New York Civil Liberties Union that a restaurant in Central Park and the city's Parks Commissioner must stand trial for refusing the facilities to the Committee to Secure Justice for Morton Sobell. He said that while a private business was not affected by the anti-discrimination provisions of the Fourteenth Amendment, the restaurant in the park, operating under a lease from the city, "is far from an ordinary private business enterprise." The ACLU, in New York, Iowa, Pittsburgh and Washington, D.C., supported peaceful picketing by refugee groups and others of the visit of Soviet Premier Khrushchev to this country. The Pittsburgh branch protested that city police had taken signs from the pickets on the request of Russian secret police. In Iowa, where members of Jehovah's Witnesses frequently run into conflict with veterans and civic groups, the members of the Marshalltown Memorial Coliseum Commission rejected the demand of five veterans organizations and voted to allow the sect to use the Coliseum for a meeting.

4. State and Local Controls

RIGHT TO LICENSE. The ACLU of Southern California will take an appeal to the state's District Court of Appeals of a test of a loyalty oath required of state officials, including applicants for a notary public commission. The suit was brought by A. L. Wirin, counsel to the affiliate, who attempted to draw a distinction before a Superior Court judge between a general state-wide oath and a relevant inquiry into political beliefs. Wirin told the court that he was opposed to such oaths on grounds of principle, religious beliefs and conscience, but stated in response to questions that he was not and never had been a member of the Communist Party and did not believe or advocate the violent overthrow of the government. The suit claimed that the oath put the burden of proof on the citizen, in violation of the U.S. Supreme Court's ruling in the California tax oath cases (*See 1957-1958 Annual Report, p. 31.*), and that it also invaded the right to privacy and opinion. The lower court held, however, that Wirin's willingness to answer specific questions indicated that his objections were not based on religious grounds.

The Southern California affiliate may be nearing the end of the legal

road to win a license for Raphael Konigsberg, a lawyer whose appeal will be heard for the second time by the U.S. Supreme Court since the struggle first began six years ago. (*See 1957-1958 Annual Report, p. 39 and last year's Report, p. 54.*) Consistently refusing to answer questions regarding his membership in the Communist Party, Konigsberg has twice been disqualified by the California State Bar although he has met all the requirements for admission, including firm denials that he ever advocated violent or forceful overthrow of the government.

The New York Court of Appeals, the state's highest tribunal, has upheld the disbarment of a lawyer after 37 years of practice on the grounds that he pleaded his constitutional privilege against self-incrimination in a judicial inquiry of illegal and unethical conduct. The NYCLU filed a friend-of-the-court brief in the case, maintaining that the disbarment violated due process guarantees of the Fourteenth Amendment by destroying a reliance on a constitutional refusal to testify against one's self.

OTHER CASES. An employee of the Federal Aviation Agency who was restored to his job on the orders of a Federal District Court again faces dismissal. The charge this time relies on "the efficiency of the service." The old accusation rejected by the court was "disgraceful personal conduct" committed six years before the employee was ever hired. The Colorado Branch, ACLU, which defended the employee on the first go-round, is defending him again. The argument is based on a U.S. Supreme Court decision that pre-governmental activities cannot be used against an individual now in government service. Upon the request of the Illinois Division, ACLU the Due Process Committee of the ACLU considered whether it was an invasion of privacy for a state to release normally confidential Social Security information to other state agencies in order to help locate parents who deserted their families. The Committee concluded that in this very special case, the claim to privacy was outweighed by the right to locate an absconding parent. The Niagara Frontier (Buffalo) Branch of the Union also considered the ends and the means of an issue when it objected to the New York State Crime Commission over the distribution of a questionnaire to Buffalo policemen in the course of an investigation into police corruption. The Branch said the public regarded the questionnaire, unfairly, as an assumption of guilt by the entire police force. "This is manifestly unfair," said the Branch, and suggested that the Commission find "other and proper methods" to obtain the information.

AMERICAN LEGION. The California Department of the Legion wound up its annual convention by demanding that the Senate Internal Security Subcommittee investigate the ACLU. The ACLU of Northern California said it has nothing to hide and would welcome an investigation of its activities by the Legion itself. The day before the resolution was passed, hundreds of Legionnaires roughed-up four college student pickets who were parading in front of the meeting auditorium. The conventioners destroyed their signs, searched their automobiles and tore up a reporter's notes of the incident. The following day San Francisco police protected from Legion harassment 150 pickets who

showed up and the ACLU affiliate praised the police for its commendable, though belated, action. The state of Washington Department of the Legion, in contrast to its California colleagues, took a civil liberties step forward when it voted to support repeal of a state law restricting aliens from owning land.

5. Congressional Action

THE COURTS. Two Los Angeles social workers who pleaded the First and Fifth Amendments in refusing to answer questions of the House Un-American Activities Committee in 1956 lost their appeal before a closely-divided U.S. Supreme Court. The ACLU and its Southern California affiliate took the case to the high court, charging that the dismissals of Arthur Globe and Thomas W. Nelson were arbitrary and unconstitutional. The firings were based on a California law which requires that any public employee subpoenaed by a congressional committee must testify about his participation in or knowledge of groups advocating the violent overthrow of the government. "Any employee who fails to appear or to answer such questions on any grounds whatsoever shall be guilty of insubordination and be dismissed from his employment," the statute declares. The majority opinion in the Globe case, backed by a 5-3 vote, held that Globe's dismissal resulted directly from his insubordination and violation of the law, and not because he invoked his constitutional privilege, as the ACLU had argued.

WILKINSON CASE. A new attempt to rein the headlong galloping of the House Un-American Activities Committee has been brought before the U.S. Supreme Court by the ACLU. The Union appealed the contempt conviction of Frank Wilkinson, affirmed by the U.S. Court of Appeals in Atlanta, for refusing to testify before the HUAC in Atlanta in 1958. (*See last year's Annual Report, p. 56.*) The ACLU brief on behalf of Wilkinson maintained that the Committee subpoenaed him unlawfully merely to harass him for organizing public opposition to its hearings. This action, said the Union, "was nothing more than a citizen petitioning for the redress of grievances, a clear constitutional right" under the First and Ninth Amendments. The brief rejected the opinion of the Court of Appeals that the HUAC was within its rights in requiring a disclosure of motive on the part of citizens who seek such redress. Such a theory, said the Union, "would defeat the very purpose of the First Amendment by foreclosing the political process through which legislative excesses may be curbed."

After hanging fire for several years while the U.S. Supreme Court considered the *Barenblatt* case, the U.S. Court of Appeals in Washington issued verdicts in the cases of nine persons who had balked at answering questions of House and Senate investigating committees. All had relied on the First Amendment, guaranteeing freedom of speech, religion and assembly. The court dismissed indictments against two women, Mrs. Mary Knowles, a librarian whose support by her Quaker employers in Plymouth Meeting, Pa. drew widespread attention in 1955; and Mrs. Goldie Watson, a former Philadelphia schoolteacher. In both cases, the court held that neither the Senate Internal Security Subcom-

mittee, which questioned Mrs. Knowles, or the HUAC which questioned Mrs. Watson, had made the objective of the inquiry clear to the witness. The convictions of seven men all are expected to be appealed to the U.S. Supreme Court. Those whose contempt citations were upheld were Alden Whitman, Robert Shelton and William A. Price, New York City newspapermen; Herman Liveright, former New Orleans TV station manager; John T. Gojack, an official of the independent United Electrical, Radio and Machine Workers; Norton Anthony Russell, an Ohio engineer; and Bernard Deutch, a Pennsylvania physicist. The complete scorecard on 36 First Amendment defendants includes three who have served prison terms, one still in prison, two acquittals, and 30 others whose trials are pending or whose convictions are in various stages of appeal.

HOUSE UN-AMERICAN ACTIVITIES COMMITTEE. The path of the HUAC continued to leave a wide swath across the nation, affecting individuals and institutions, provoking some counterattacks, including one full-fledged riot. The ACLU Board of Directors approved a Biennial Conference resolution making elimination of the Committee "a prime order of business." In testimony before the Democratic and Republican Platform Committees, the Union said the Committee had sapped the strength of the First Amendment by engaging in trial-by-publicity in a circus atmosphere, rather than allowing security questions to be raised where they belong—in court rooms where in a full trial a judicial judgement could prevail. Congressman James Roosevelt also continued his attack upon the HUAC, renewing his proposal in Congress to abolish the panel as "a discredit to the country." One investigation criticized by Roosevelt was the inquiry into Communist influence in the California school system, as a result of which approximately half a dozen teachers—out of a total of 111,500—were dismissed or forced to resign. Both the Northern and Southern California affiliates of the Union defended a number of the teachers in local school board proceedings begun as a result of a self-styled HUAC "experiment" whereby the Committee turned over more than 90 dossiers to local boards in lieu of holding its own hearings. The ACLU of Southern California opposed this move in the Federal District Court and lost, and when the HUAC did arrive on the scene to conduct a new set of hearings in San Francisco, its appearance touched-off a riot by students, witnesses and others. Police used fire hoses, fists and clubs to quell the melee, in which 12 persons were injured and 68 were arrested on charges of participating in a riot, disturbing the peace and resisting an officer. The ACLU of Northern California, in a subsequent statement on the fracas, scolded both the demonstrators and the police for their behavior. The affiliate said that although it was opposed to the existence of the Committee, "it is also opposed to disorderly methods of expressing such opposition. At the same time, it is also clear that the whole matter was badly handled by the police. If the police had acted with firmness at the outset and ejected or arrested persons who were disturbing the peace in the corridors of City Hall, the situation would not have gotten out of hand. . . ." The police came under heavy fire for physical attacks against the protesters, including dragging of people off the steps of the City Hall

and the use of fire hoses. The ACLU of Northern California commented: "... the police used excessive force in dealing with the situation. And we think those officers who were guilty of misconduct should be properly and immediately dealt with by the Police Department or the Police Commissioner." At a later hearing, a Municipal Court judge dismissed the charges against 67 students, remanding the case of one defendant for trial.

The ACLU protested the Committee's investigation of Communist activities among youth, which reportedly stemmed from a meeting of the Communist-controlled World Youth Festival in Europe. The Union said the investigation was "an invasion of the free speech and association guarantees of the First Amendment." Another HUAC investigation condemned by the Union was the public hearings in New York and San Juan, P.R. into alleged Communist influence among Puerto Ricans. Pointing out that such activity has never been an issue in the island Commonwealth, the ACLU said the inquiry would be "offensive" to Americans who know that Puerto Rico is quite capable of handling elements subversive to democracy. . . . The San Juan hearing particularly was scored because the HUAC's jurisdiction over the affairs of the autonomous Commonwealth of Puerto Rico was at the least "questionable." Because of this the ACLU asked the Department of Justice to drop contempt indictments returned against 13 Puerto Ricans.

LINUS PAULING CASE. Dr. Linus C. Pauling, Nobel Prize-winning biochemist of the California Institute of Technology, sought in the federal courts to postpone the Senate Internal Security Subcommittee from forcing him to disclose the names of persons who had assisted him in obtaining signatures to a petition urging an end to nuclear tests. The 11,000 signatures were turned over to the United Nations in 1958. Pauling said in his suit that he was willing to disclose the names of all persons who have signed the petition—they were already public—but that the subcommittee acted illegally in demanding the names of those who had aided him in the petition campaign. Pauling refused to answer the subcommittee's questions because, he contended, this might lead to "reprisals against those believers in the democratic process." Dr. Pauling also said that submitting the names would make it impossible for him to secure the distribution of a further petition. He argued that his First Amendment right of conscience, speech and press had been violated as well as his Fourth Amendment right against unreasonable search and seizure. In a public statement and legal brief the ACLU gave "strong support" to Dr. Pauling's case, both his First Amendment challenge of the subcommittee's questioning and the legal technique he pursued, to determine in advance, the scope of the subcommittee's authority. Calling the right of petition a "prized element" of civil liberties, the ACLU said the First Amendment "squarely forbids government interference with the individual's voicing of political opinion, no matter what form such expression of opinion takes."

SMITH ACT. The U.S. Supreme Court for the third time heard argument on the constitutionality of the membership clause of the Smith Act. The clause makes it a crime knowingly to be a member of

a party that advocates the forcible overthrow of the government. Twice before, the court has heard argument on the constitutionality of the provision in connection with the conviction of Junius Irving Scales, former Carolinas chairman of the Communist Party. It also had scheduled argument on the clause in the case of John Francis Noto, ex-secretary of the Party in New York. (*See last year's Annual Report, pp. 58-59.*) A third conviction of former Illinois Communist leader, Claude Lightfoot, also rests on the final outcome of the latest court action.

Meanwhile, with the Justice Department decision to drop retrial of six Ohio residents convicted under the Smith Act in 1956, the case of six Colorado Communist Party members remains the only such prosecution still active in the courts. Their conviction has been appealed to the U.S. Circuit Court of Appeals in Denver with the Colorado Branch, ACLU planning to file a friend-of-the-court brief.

In another security area, the U.S. Supreme Court was asked for the second time to decide on the constitutionality of the 1950 Internal Security Act's provision requiring public registration of Communist-action organizations. The Communist Party was ordered to register in 1953 after a finding by the Subversive Activities Control Board, but the case has dragged on for years because of lengthy hearings and challenges of perjured testimony before the Board. So far the Communist Party has not actually registered. The ACLU, in a friend-of-the-court brief to the high court, said it opposed the 1950 law. It said the statute impeded open presentation of non-revolutionary opinions on social and political topics; expression that "is far removed from incitement to violence or any other danger that Congress has the power to prevent." Regardless of what may be the Communist Party's ultimate objectives, the ACLU said, the Party expresses opinion on a variety of social issues, such as labor relations, race discrimination, and control of atomic weapons.

LABOR

POLITICAL ACTION. A policy statement by the ACLU Board of Directors upheld the use of union dues for political purposes "as an exercise of the right to free expression protected by the First Amendment." The Union declaration, which was coupled with a call for the protection of dissenting union members to voice their opposition inside and outside the union, was made as the U.S. Supreme Court agreed to review an appeal by the International Association of Machinists from a ruling by the Georgia Supreme Court. The state court had struck down as unconstitutional the National Railway Labor Act which permits union shop agreements, on the ground that such contracts interfered with the freedom of opinion of workers who disagreed with the union's political stand.

The ACLU, however, said that while the rights of a dissenting minority within a union should be recognized, they cannot thwart the will of the majority to have their dues used for political purposes. ". . . So long as such (minority) members have an effective right to

participate in the decision-making process within the union, including the right to vote for union officials of their choice, they are not deprived of their civil liberties," the statement said. "The remedy," added the Union, "lies not in the stifling of group opinion, but in democratic participation in the political life of their union so that a majority of the union members may, in time, be persuaded of their wisdom." In commenting on the IAM appeal, the ACLU also reaffirmed its position taken in 1943 and 1948 that special union assessments for political purposes—apart from union dues receipts—should be made "only by a vote of the union's membership, with the right of any member opposing such action to be free of assessment."

WORKERS RIGHTS. Several ACLU affiliates have intervened on behalf of union members who have been denied their rights through violation or lack of internal democratic processes. Such a case, supported by the ACLU of Southern California, involves two IAM members who were expelled for publicly campaigning in favor of a state "right-to-work" law—a measure bitterly and actively opposed by the union. An IAM trial board found the men guilty of disloyalty and it was the contention of the union in court that it had the "inherent" right to expel on this ground. A Superior Court judge agreed, ruling that the union may properly regard "right-to-work" laws as a threat to its existence and may consider union members who support them as disloyal. In discussing the issues raised by the case, the Labor Committee of the national ACLU supported the idea that a union member may, as a citizen, take part in a public debate. However, it added, this "does not mean that steps leading directly to the union's detriment may be taken with impunity." The Committee said that where "the relationship between advocacy of an idea and the union's well-being is itself highly debatable, disciplinary proceedings should be closely limited." The panel added that "if discipline is to be imposed because of open advocacy of contrary opinion in a forum of the member's choice, the burden of establishing the gravity of the offense should rest on the union." In a case affecting job rights of union members, the Greater Philadelphia Branch of the ACLU is trying to solve the dilemma of workers in Chester, Pa., who have had great difficulty in finding employment because neither the Philadelphia nor the Wilmington, Del., locals of the International Association of Heat and Frost, Insulations and Asbestos Workers, will allow them membership. Each says it is the responsibility of the other. In a third ACLU case, the Northern California affiliate filed an appeal to federal courts from a U.S. Civil Service Commission review board ruling upholding the dismissal of a San Francisco postal worker who led a union picket line in front of the Post Office during his off hours.

LOYALTY AND SECURITY. Merchant seamen who had not been able to find work on American flag ships for as long as ten years because their loyalty had been questioned by the Coast Guard finally won that right on the eve of a court trial. Twenty-one seamen had sued the National Maritime Union and the employers for flaunting a 1956 Federal District Court ruling that the seamen's suspensions were

unconstitutional because the Port Security program violated due process by denying the right to confront and cross-examine their accusers. The agreement, reached by the seamen, the NMU and the employers, applies to all men who on their appeal to the industry-union Joint Appeal Board had been denied access to the hiring hall as security risks. Such seamen are now again eligible to register at NMU hiring halls. The U.S. Supreme Court refused to review an appeal, supported by the Maryland ACLU, by four Bethlehem Steel Co. employees who were fired in 1957 for refusing to testify before the House Un-American Activities Committee. The United Steelworkers of America refused to bring the firings before an arbitrator on the claim that the employees' silence before union officials on the question of possible Communist Party membership made it impossible to evaluate their grievance.

BIAS. The AFL-CIO continued to move against discrimination against Negroes among its affiliated unions, but the speed of the campaign continued to cause dissatisfaction among many Negro unionists and such organizations as the NAACP. This was the principal factor behind the creation of a National Negro Labor Council, composed of Negro unionists affiliated with the merged federation, which will try to pressure the AFL-CIO to step up its anti-bias drive.

PICKETING. In Congress, the ACLU objected to a bill that would make it a federal crime to "hinder, obstruct or delay" any message carried by a commercial communications company or to interfere with the operation of such a network. The Union declared that the proposal, intended to protect military and civilian defense facilities, could easily be interpreted to prohibit a strike or picketing of such a system and therefore threatens First Amendment rights of free association by workers in unions of their own choosing. The Senate killed the bill.

OTHER ACTIONS. A divided U.S. Supreme Court upheld a New York state law prohibiting convicted felons from holding office in waterfront unions. The majority opinion rejected the constitutional argument put forward by the NYCLU in a friend-of-the-court brief that the law deprived an individual of his due process rights under the Fourteenth Amendment through the arbitrary use of a past felony conviction and by failing to provide for a hearing. The opinion said that while such a law was severe, the high court could not substitute its judgement for that of the legislature.

EQUALITY BEFORE THE LAW

THE FEDERAL SCENE

CONGRESS. The President signed the Civil Rights Act of 1960, a measure denounced by critics as weak and complicated, but which President Eisenhower hailed as "a historic step forward." Whatever view one took, it was generally agreed that the effect of the law in winning voting rights for Negroes was a long way off. The heart of the bill creates a new and intricate system of judicially-appointed "voting referees" to overcome the denial of the ballot box to qualified Negroes in the South. While the ACLU testified in favor of a simpler procedure recommended by the Civil Rights Commission whereby the temporary federal registrars would be appointed in any area where the right to vote was illegally denied, the Union also supported the Administration plan for court-appointed referees. The Union's hope, however, that the referee plan would not involve such prolonged appeals as to moot the right to vote, through repeated delays, appeared to be headed for disappointment. For before the referee machinery can be started, the Justice Department must bring specific cases under the 1957 Civil Rights Act and prove that qualified citizens of the community had been denied the right to vote because of race or color. After this case is proved, the Attorney General could ask a Federal District Court judge to find a "pattern or practice" of discrimination, thus paving the way for the appointment of referees to register Negro applicants. First, however, Negro applicants must try to register with local officials before seeking relief with the referee. And even after being registered by the referee, their qualifications are subject to further court challenge.

On two occasions during the debate that preceded final passage of the Civil Rights Act, the ACLU spoke out on specific aspects of the pending legislation. In testimony before the Senate Rules and Administration Committee, the Union called for prompt passage of a bill authorizing the appointment of temporary federal registrars. The right to vote "stands at the top of the list of fundamental rights enjoyed by United States citizens, and its abrogation—anytime, anywhere, raises a civil liberties problem of major proportion. . . . To reduce such citizen participation by denying the franchise saps the strength of democratic government itself. (It also) is seized eagerly by totalitarian forces in strategic foreign areas to strike at our position," the ACLU said. In a second public statement, the Union declared that whether registrars are appointed by the executive branch or by the courts, the legislation contains adequate safeguards for fair hearings for state officials charged with refusing to qualify eligible citizens to vote. The issue arose because at the first stage of the proceedings the bills did not provide for accused registrars to be notified of the charges against them or for the right to confront and cross-examine their accusers at hearings of the Civil Rights Commission. The ACLU said that such a procedure ought to be followed at a subsequent stage of the case, but that initial anonymity of the complainant was necessary to prevent "political, economic or physical reprisal." The constitutional protections of procedural due process, the ACLU said, "have never been held to extend to an assur-

ance of the full right of confrontation in administrative hearings which are merely investigative." By contrast, said the Union, adjudicative proceedings should include notification and confrontation to remove any doubt as to their constitutionality.

THE COURTS. Two decisions by the U.S. Supreme Court cleared the way for active federal intervention on behalf of citizens who were denied the right of franchise. The high court said it was constitutional to allow the Justice Department to sue on behalf of Negro voting rights, and also held that the Civil Rights Commission did not have to tell local registrars the names of Negroes who filed complaints of voting discrimination. The CRC had suspended hearings awaiting the high court verdict. (*See below*) The opinion compared the Commission's activities to an investigatory congressional committee and declared that, historically, witnesses in such actions never had the right to confront their accusers because they were not being judged. Such rights, said the court, paralleling the ACLU view, apply only in adjudicative proceedings where an individual was being actually judged. The dissenting opinion said that the local registrars were, in effect, being "tried" by public opinion and that their due process protections were being invaded if they did not know the names of their accusers.

CIVIL RIGHTS COMMISSION. The Commission resumed hearings in Louisiana, actively sought by the Louisiana Civil Liberties Union for more than a year. The Commission's action followed the U.S. Supreme Court's verdict upholding the constitutionality of the Commission's procedures. The affiliate charged that a state legislative committee was encouraging registrars to challenge and discourage Negro voters and to purge voter lists of Negro registrants. The LCLU had reported that 1,377 Negroes were erased from the rolls in a single parish (county).

The ACLU Board of Directors voted to approve all the recommendations made by the Commission in its first report except one and took no action on another. The Board opposed a recommendation that the Bureau of the Census be empowered to compile registration and voting statistics by race, color and national origin on the ground that there should be no compulsion to answer such questions. The Board took no position on a suggestion that the Bureau of the Census and the U.S. Office of Education conduct an annual school census to show the number and race of public school and college students, recorded by school districts and institutions of higher learning. The Board supported a recommendation of three Commission members for a constitutional amendment establishing universal suffrage and eliminating any other requirements from voting except age, residence, and non-confinement in prison or a mental institution. Such voting tests, particularly literacy tests, are being abused in order to deprive persons of the right to vote, the Board declared. Among the other proposals endorsed by the Union were recommendations furthering voting rights, such as preservation of registration and voting records, ending housing discrimination and a suggestion by three Commissioners that federal funds be withheld from all schools and colleges which refuse, on racial grounds, to admit otherwise qualified students.

OTHER FEDERAL ISSUES. The Union objected to a question on the 1960 census form which asked the individual to indicate his "specific color or race." The basis of the Union's stand was that the vaguely-worded query will not result in reliable information while it "raises in the minds of many of our people the specter of some threatened discrimination. . . ." The ACLU asked the Bureau of the Census to eliminate the question or at least not to penalize anyone who refuses to answer it. In reply, the Bureau said it would not prosecute persons who decline to answer the "color or race" question. While the Union supported the government's right to compile "a vast and varied array" of information, it urged new safeguards to prevent disclosure of data concerning individual persons or establishments and the elimination of mandatory answers to a group of more detailed questions put to members of every fourth household.

The perennial issue of amending the federal constitution to guarantee "equal rights" for women once again occupied the Union's attention. The ACLU has opposed the amendment because it would not safeguard differential social legislation for women that has been established over the years. The Board of Directors voted to "renew cooperation with other organizations in opposing the so-called equal rights amendment and simultaneously cooperate with them in pushing a three-point program of action in the legislatures (both state and Federal), in the courts, and in the field of education," to eliminate remaining improper discrimination against women.

STATE AND LOCAL ACTION

SIT-INS. Young, educated Negroes, dissatisfied with the snail's pace of desegregation through the courts, moved dramatically and spontaneously in the late winter of 1960 to win wider citizenship rights. Their choice of a battlefield, lunch counters in Southern variety and chain stores, was only a minor sector in the over-all struggle—but the overwhelming success of their strategy of passive resistance signalled a new phase of the Negroes' determination to put an end to racial discrimination on all fronts.

From February 1, when the first "sit-in" took place in Greensboro, North Carolina, the ACLU was deeply involved in the protest movement. Through direct legal defense of arrested students, through advice and counsel to groups involved in the campaign, and through numerous public statements, the Union stressed the constitutional right of peaceful protest through picketing and the right of Negroes to be served at eating places open to the general public. The Union said that in addition to having the free speech protections of the First Amendment, Negro students were entitled under the Constitution to eat wherever they chose.

"Although the 'sit-ins' have taken place on private property," said the Union, "there is a firm legal basis for the position that once a person has been invited into a place of business—as Negroes are in the South—the storeowner cannot pick and choose what wares he will sell to customers; his place of business becomes at the very least a quasi-public facility and he must sell to all people who want to buy."

The Union opposed the arrest of 41 Negro students in Raleigh,

North Carolina on charges of trespassing on a sidewalk in front of the F. W. Woolworth store and criticized the state Attorney General for encouraging—even indirectly—the prosecution of citizens for peaceful protest. This was a violation of constitutional guarantees of equal treatment and free expression, the Union said. The official responded with a militant reply that was to set the tone for authorities throughout the South. If the ACLU did not like the law in North Carolina, said Attorney General Malcolm B. Seawell, it could “lump it.” The Union’s position was upheld by the North Carolina Supreme Court which reversed the conviction of the Raleigh students. The high court took the position that the ACLU view of the constitutionality of the “sit-ins” was correct, at least so far as sidewalks of shopping centers go.

The Florida Civil Liberties Union was busy in three “sit-in” cases. The affiliate supplied legal support for 11 Negro students whose arrest was demanded after they “sat-in” in a Tallahassee Woolworth store. Six white students who were arrested in Tallahassee for demonstrating in sympathy with the arrested Negroes were also defended by Florida CLU attorneys. The students’ convictions for unlawful assembly and breaking the peace are being appealed. In Miami 18 members of the Congress of Racial Equality were convicted of violating a state law allowing a business proprietor to eject a customer as an “undesirable patron.” The 18 were given a year’s probation and an appeal is being taken in this first test of the state law. Elsewhere, the ACLU was active in Louisiana, where 16 students were expelled from Louisiana Southern University after they were arrested and jailed for “disturbing the peace” for staging a sit-in demonstration; and in Montgomery, Alabama where a touring group of white students from Illinois, their dean and his wife were arrested for eating in the private diningroom of a Negro restaurant. The Union obtained counsel for the latter group. Only the dean was convicted, for breaking a new city ordinance—designed to meet the sit-in threat—which defines disorderly conduct as behavior “calculated to cause a breach of the peace.” The ACLU is backing the appeal.

Issues raised by the waves of “sit-ins” were not confined to the South, however. In the North, where college authorities and local police attempted to block student sympathy picketing, the ACLU also entered the scene. “Such action,” said the Union, “raises a fundamental threat to freedom of speech and academic freedom,” especially a threat of disciplinary reprisal or expulsions. In three cases the ACLU was particularly active. The Metropolitan Detroit Branch named a committee to meet with the Wayne University administration to support the students’ right of protest, as well as students’ rights in general; and letters endorsing the right to picket were sent to the presidents of Skidmore and Elmira State College and were publicized.

NAACP HARASSMENT. The U.S. Supreme Court upheld the right of two Arkansas NAACP officials to refuse to disclose the names of its members in Little Rock. The court said that disclosure could cause intimidation and harassment of NAACP members as well as discouraging future membership and endangering freedom of association. Louisiana, meanwhile, has appealed to the high court to reverse a Federal District Court verdict that the NAACP did not have to comply

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with a state law requiring the organization to file membership lists. The federal court said the statute violated the free speech and free assembly protections of the First Amendment and the Fourteenth Amendment's guarantee of due process.

On the state court level, Virginia's highest court nullified one restriction against the NAACP and upheld two others when it said that the group could advise persons to file civil rights suits but could not solicit legal business for NAACP lawyers or other lawyers. The third opinion upheld a lower court in refusing to block a legislative committee which sought the NAACP's membership rolls.

The ACLU affiliate in Florida provided counsel to a former president of the Miami branch of the NAACP and a member of the Florida CLU who has been ordered by a state Circuit Court judge to testify before a state legislative committee. The witness, Rev. Edward T. Graham, was subpoenaed along with Rev. Theodore R. Gibson, current head of the Miami NAACP branch, in an alleged investigation into so-called Communist infiltration into the organization. The investigation, which has been going on for three years (*See last year's Annual Report, p. 68 and 1957-1958 Annual Report, p. 53.*), demanded that both men reveal whether they are members of the NAACP. The Florida CLU assailed the legislative committee for trying to "harass organizations which seek to implement the U.S. Supreme Court's decision on school desegregation." Rev. Graham was convicted of contempt but the six-month sentence was stayed until the Florida CLU could challenge the entire issue before the state Supreme Court.

The ACLU has also come in for its share of attack from Southern politicians. In addition to attacks upon the Union made in the case of University of Mississippi professor William Murphy (*See p. 27.*), the Attorney General of Alabama accused the Union of having delivered "a large amount of money" to a Negro group in Birmingham, Alabama in order to promote racial agitation. Executive director Patrick Murphy Malin immediately labelled the statement "absolutely false" and pointed out that the Union has never promoted racial agitation nor has it donated any sums of money to anyone in Birmingham. Pointing out that Negro defendants have a difficult time in obtaining legal defense in the Birmingham area because of over-worked Negro attorneys and the fear of white lawyers to take on controversial cases, Malin said ACLU has, however, supported in court persons seeking equal status, and will continue to do so.

VOTING RIGHTS. The U.S. Supreme Court took under review a potentially significant challenge by Tuskegee Negroes who charge that a 1957 change in the city's boundaries constituted unconstitutional racial discrimination. The change made the boundaries of Tuskegee look like a "sea dragon" of 28 sides, instead of the simple square it used to be. The new boundaries did not eliminate any white residents or white voters from the city limits, but it excluded 3,000 Negro residents and all but five of Tuskegee's Negro voters. The ACLU filed a friend-of-the-court brief supporting the Tuskegee Negroes.

OTHER ACTIONS. U.S. Attorney General Rogers said that the refusal of federal and state grand juries to return indictments in the

lynching of Mack Charles Parker was "a travesty of justice." Parker, 23, was dragged from his Poplarville, Miss, cell in April, 1959 two days before he was to go on trial on charges of raping a white woman. His body was discovered by FBI agents in a nearby river.

The ACLU urged the Attorney General not to make public the FBI's report on the Mack Charles Parker lynching despite the fact that two grand juries did not return indictments. "To do so," said the Union, "would mean that the federal government is adopting the philosophy of the ends justifying the means. Public disclosure . . . would be directly contrary to the constitutional principle that accusations against people are to be handled through the judicial process," added the letter, even though the lynching was a "terrible crime expressing the ultimate explosion of racial prejudice and deserves the condemnation of every civilized person."

UP NORTH. In a series of actions by ACLU affiliates, the Arizona CLU was upheld by a Superior Court judge who ruled that the state's law prohibiting intermarriage with a Caucasian was a violation of the First and Fourteenth Amendments; the Massachusetts CLU voted to oppose the designation of color and race on birth, marriage and death certificates; the Montana CLU state correspondent challenged a finding of the federal Civil Rights Commission's state advisory committee that there were no civil liberties problems in Montana, by pointing to discrimination in hotels and restaurants and police mistreatment of minority groups; and the ACLU of Oregon told the state Attorney General that discrimination by fraternities on state college campuses constituted state action in violation of the equal protection clause of the federal constitution.

GENERAL DEVELOPMENTS

EDUCATION. Time is running out for procrastinating and defiant school boards throughout the South. Although it may be years before such states as Georgia, Mississippi, Alabama and South Carolina finally face a U.S. Supreme Court order from which there is no appeal, the mounting legal pressure is forcing a number of communities to face, and publicly discuss, the alternative between token integration and no public schools at all.

New Orleans was the scene of a major struggle where a willing school board said it could "work out some kind of plan" to begin integration in the first grade in compliance with a Federal District Court order, but an unyielding Governor in defiance of the court invoked a state law giving him the power to take over the schools and close them completely. The federal court, however, struck down the school closings laws as unconstitutional. As a showdown in the eight-year-old legal battle approached, less than 100 Negro children are expected to apply for admission to previously all-white schools.

If the atmosphere of New Orleans is anxious and agitated, the climate of Houston was calm as first-grade integration began. Houston, like New Orleans, had been rebuffed by the U.S. Supreme Court in a last-ditch appeal to delay the Federal District Court order. Houston voters had previously voted 2-1 against integration and the federal court had

rejected as a "palpable shame and subterfuge" a school board plan that would have designated one public school, one high school and one junior high for the entire city for students who "wanted" to attend integrated classes. While Houston residents appeared passive towards the prospect of integration, the Texas legislature may not be. A state law could result in the cutting off of state aid and fines for local officials who desegregate schools without an affirmative vote.

Dollarway School District #2—just outside Pine Bluff, Ark.,—has already been the scene of mob violence. Fears—fortunately not realized—that the same thing may happen again were prompted by the admission of a six-year-old Negro girl to the first grade and by a finding of the U.S. Court of Appeals that the school district had not made a "reasonable start" towards the desegregation of its schools. In an attempt to head off just such verdicts, Governor Orval Faubus placed before the voters a constitutional amendment permitting residents of a school district to close the schools by majority vote and split up school funds among the eligible students in the district. The Dollarway situation is also significant in the possibly wide application of the U.S. Court of Appeals ruling which set aside the school board's operation of the state's pupil placement law. The court said that the effect of the law cannot leave "the existing racial situation existing, just as before." In other court decisions affecting pupil placement laws—the chief device whereby integration has been held to a trickle—the Fourth and Fifth Circuit U.S. Court of Appeals ruled that under such statutes Negro students cannot be given tests different from white students before they are admitted. The rule that the federal courts appear to be applying is a practical one: is the law fair in its operations. Thus, the U.S. Supreme Court refused to review Nashville's grade-a-year desegregation, but the Third Circuit U.S. Court of Appeals struck down Delaware's grade-a-year program, which would have resulted in full integration by 1972; and ordered full integration by the fall of 1961. The U.S. Supreme Court refused to modify the lower court's order. Meanwhile, in Little Rock itself, although the eight Negro students attending the city's two high schools continue to be ostracized by their fellow students, the tide of extremism seemed to have waned. Thirteen Negroes enrolled in the schools in the third year since the riots. As the 1960-61 school year started in the South, this was the scorecard: token compliance with court rulings on desegregation began in 17 school districts for the first time—a total of 768 out of 6,676 in which some racial mixing has occurred. Six percent of the total number of Negro school children are now attending previously segregated schools.

ACTION IN THE NORTH. The New York City Board of Education reversed a long-established policy and announced a system of "open enrollments" whereby Negroes and others will be able to attend schools they prefer, rather than attending neighborhood schools exclusively. Segregated housing had resulted in *de facto* school segregation under the old system and Negro parents had threatened to repeat a mass "sit-out" by their children if the system was not changed. The parents charged that all-Negro schools were educationally inferior. In the colleges, the New York Civil Liberties Union opposed a recom-

mendation by the city's Commission on Intergroup Relations that would impose specific punitive measures upon campus publications printing anti-religious or anti-racial articles. The NYCLU said the recommendation would restrict freedom of speech and press of students. The Minnesota Branch of the Union investigated the case of two university students who were evicted by their landlady after they were visited by a Negro and a Chinese.

HOUSING. Laws prohibiting discrimination in housing were upheld by two state courts, while three states took their first action under recently passed legislation. Generally, the NAACP found "unmistakable signs of progress" in ending bias on the federal and state levels. Ironically, a more aggressive attitude by federal officials has resulted in a reluctance by many communities to begin public housing projects because of the requirement that they be racially integrated, the U.S. Commissioner of Public Housing reported. Among the steps taken by federal authorities was an FHA directive barring the sale or rental of foreclosed properties with regard to race, color or creed. The National Committee Against Discrimination in Housing, of which the ACLU is a member, repeated its plea for a Presidential executive order making clear a policy of non-discrimination for all federal housing.

New York City's pioneer law prohibiting discrimination in private housing was sustained by a state Supreme Court justice who said that "the individual must yield to what the legislative authority deems is for the common good." It was the first test of the law. Another first was recorded in New Jersey where the state Supreme Court ruled that a law barring discrimination in publicly-assisted housing was constitutional. Even before the U.S. Supreme Court refused to hear an appeal from the verdict, William J. Levitt, the challenger, announced he would "voluntarily" sell two of his 16,000 houses in a New Jersey development to Negroes. (*See last year's Annual Report, p. 75.*) Levitt also hired a group of specialists in race relations to smooth the way. The first test of the Washington state law prohibiting discrimination in publicly-assisted housing was argued in the state Supreme Court. The ACLU and 12 other national organizations, through the National Committee Against Discrimination in Housing, filed a friend-of-the-court brief backing the law.

State commissions in Colorado and Massachusetts issued their first orders to comply with new laws banning bias in private housing while California took its first steps under a recent statute barring discrimination in publicly-aided construction. Massachusetts also strengthened its year-old law by extending coverage to anyone granting mortgage loans, and a ruling by the California Attorney General put real estate brokers under the new statute. Real estate brokers and salesmen in Michigan and Massachusetts were also prohibited by state agencies from discriminating on grounds of race, creed and color in the sale or rental of real estate. Unsuccessful attempts to pass fair-housing laws applicable to private housing were made on the state level in New York and Rhode Island and on the local level in Cleveland and St. Paul.

The Metropolitan Detroit Branch of the ACLU condemned discriminatory housing practices in a case which received widespread

attention involving real estate brokers in the exclusive Grosse Point area. Realtors there had secretly adopted a complex system of rating prospective homeowners according to their nationality, accent, way of living, dress and whether they were "typically American." The system even went so far as to blackball brokers who defied it. Disclosure of the rating plan proved to be its undoing. The Michigan State Corporation and Securities Commission issued a new state ruling barring discrimination in real estate activities—a goal which the legislature has tried, but, failed to accomplish. Elsewhere on the state and local scene, investigations by private and public agencies have found much greater bias than meets the eye in housing throughout New York State, where a legislative committee said the discrimination is "vast"; in San Francisco, where real estate brokers themselves admitted that discrimination was still the practice; and in Chicago, where the search by a law firm for new quarters showed that 17 buildings in the Loop would not rent quarters for racial reasons. The Iowa Civil Liberties Union reports that the technique is still very much alive in Des Moines, where some brokers are attempting to destroy an integrated area by warning whites to move and then showing vacant homes only to Negroes. State officials met with real estate boards in New York City in order to work out a professional code barring such practices.

A growing number of colleges and universities are insisting that off-campus housing must be non-discriminatory in order to be approved for listing with school officials. Cornell and the Universities of Washington and Colorado are among the most recent institutions with such requirements. Ohio State University said that any licensed off-campus rooming house against which a discrimination charge had been proved will be dropped from the approved listing service. The general question of housing barriers faced by minority students is being studied by the New York State Commission Against Discrimination, which is investigating the housing practices of 173 state colleges and universities.

EMPLOYMENT. Delaware became the 17th state to pass enforceable legislation barring discrimination in employment because of race, creed, or color. Indiana and Kansas may investigate job bias complaints but cannot enforce their findings. (The new Delaware bill also bars discrimination because of age.)

A key test of Colorado's FEP law is before the state Supreme Court after a state District Court nullified the power of the state Anti-Discrimination Commission to act against Continental Air Lines, Inc. for not hiring Marion D. Green, a Negro pilot. The first year of California's FEP Commission saw the receipt of 123 complaints, of which nearly 100 are still pending. Seven were settled amicably. The New York State Commission Against Discrimination reported getting a record number of 753 complaints during the first nine months of 1959. And in Wisconsin, the Governor has signed a bill prohibiting firms under state contract to discriminate among their employees.

The President's Committee on Government Contracts has been stalled in an attempt to win the right for Negro electricians to work on government jobs in the nation's capital. A public row over the situation was touched off by AFL-CIO president George Meany, who

accused the Committee of dragging its feet in not compelling contractors to hire qualified Negroes. Meany also threatened to bring in non-union Negro electricians from other areas to do the work. The contractors counter-charged that the local of the International Brotherhood of Electrical Workers does not permit Negroes to join the union. Five Negroes then applied directly for jobs with the builders but were turned down as not qualified. The Committee reported more progress, however, outside the District of Columbia. It reported that as a result of personal appeals to business executives, Negroes have been hired for the first time by firms in Texas, South Carolina and Delaware and have received wider job opportunities elsewhere. Also on the federal level, the Civil Rights Commission has begun an investigation into job discrimination created by federal grants, such as the work of state agencies receiving government aid. The controversy over Negro job opportunities in Washington, D.C. was underscored by the NAACP in a detailed report charging that federal, state and local agencies were not using their available power to end racial discrimination in apprenticeship programs. The NAACP charge was supported by an official Philadelphia commission which found that Negroes received less training, less pay and fewer promotions than whites and by a report of New York state's anti-discrimination commission that only two per cent of the state's 15,000 registered apprentices were Negroes.

PUBLIC ACCOMMODATIONS. Economic competition and moral suasion have combined to make it easier to arrange racially mixed conventions in a number of Southern cities. After years of starring Negro performers in hotels and plush gambling joints, Las Vegas finally lifted a tacit ban that has existed among most establishments against Negro guests. Who will profit more by the change remains to be seen. Many years ago Negroes won their first series of desegregation decisions in the area of interstate travel, and now the U.S. Supreme Court has agreed to hear the latest of such appeals in a case involving a law student who was arrested for trespassing when he refused to leave a segregated lunchroom while traveling on an interstate bus. The bus was on its way from Washington, D.C. to Salem, Ala. The arrest took place in Richmond, Va. Beatniks continue to rub many people, including easily irritated police, the wrong way and the ACLU of Northern California continues to defend them. The affiliate, for example, intervened and persuaded the management of a pastry shop to serve a black-stockinged model and her husband. Also, in Seattle, a Negro woman won a damage suit against the local Slenderella salon, which had refused to serve her.

Many of the problems of discrimination against Negroes in the use of recreational facilities are by no means exclusive to the South. In the North, for example, the Greater Philadelphia Branch of the Union and the Lancaster Chapter of the ACLU of Pennsylvania are keeping tabs on a number of suburban swimming pools which have been converted to "private clubs" after receiving injunctions prohibiting bias. New Jersey reported that one third of the inland swimming facilities in the state practice some form of discrimination. The Washington State Board of Discrimination ruled that four golf clubs which used public courses discriminated against Negroes in tournaments. The same issue

arose in New York, where the state obtained an agreement to bar future tournaments on public courses in which Negroes are barred from participating. In two cases involving amusement parks, the Maryland Branch, ACLU wrote a friend-of-the-court brief on behalf of pickets who were arrested while demonstrating against alleged bias at Gwynn Oak; and the Indiana Civil Liberties Union investigated conditions at Riverside. The ICLU also investigated discrimination in Indianapolis restaurants. After many years of study, the New York SCAD concluded that the phrase "churches nearby" in advertising resorts is not a case of encouraging religious discrimination. And after many years of friction, the American Legion cut all ties with its 40 & 8 Society over the fun-making society's racial membership restrictions.

AMERICAN INDIANS

The principal work of the Union's Indian Civil Rights Committee was its continuing efforts to persuade the government to reconsider its decision to proceed with the construction of the Kinzua Dam which would result in the inundation of the reservation of the Seneca Indians.

Subsequent to the passage, over President Eisenhower's veto, of the omnibus public works bill which contained a fund appropriation for the start of construction of the Kinzua Dam (*See last year's Annual Report, pp. 79-80.*), another ACLU appeal was sent to the White House requesting administrative re-appraisal of the dam project. The heart of the letter consisted of a detailed report prepared by Dr. Burt Aginsky, chairman of the Committee, setting forth detailed findings in support of the conclusion that the construction of the dam at the Kinzua site would "bring to an end the religious and cultural customs which give meaning to the life of [the Seneca] people." The White House replied that "alternate plans have been carefully studied by the Corps of Engineers . . . but [it was] found that the Allegheny Reservoir, as presently planned would be the most economical solutions to the problems involved." The ACLU letter was circulated to all members of the Appropriations Committees of the House and Senate, and although efforts are still being made to forestall construction of the dam, neither Congress nor the White House appeared to be persuaded.

The Committee was also concerned over a law-suit instituted by members of the Native American Church of America, composed to a large extent of Navajos, against the Navajo Tribal Council. The suit sought to enjoin enforcement of a tribal ordinance prohibiting possession or use on tribal property of peyote, a substance which is used as an integral part of the Church's religious ritual. The Church contended that the ordinance invaded its members' freedom of religion. After a decision by the U.S. Court of Appeals in Denver which held that the Bill of Rights does not apply to the acts of Indian tribal governments, the ACLU was formally requested to support an appeal to the U.S. Supreme Court. The Board of Directors agreed, in principle, that the acts of Indian tribal governments should be governed by the Bill of Rights, and that the Union should present this position in friend-of-the-court briefs on a case-by-case basis. It also helped the Church to obtain an attorney to handle this particular case.

DUE PROCESS UNDER LAW

FEDERAL EXECUTIVE DEPARTMENTS

1. Citizenship, Naturalization, Deportation

CITIZENSHIP. The U.S. Supreme Court, for the second time, returned to a lower court for clarification a case questioning the power of Congress to take away the citizenship of a draft-dodger. In a friend-of-the-court brief supporting Francisco Mendoza-Martinez, the ACLU argued that the law is unconstitutional for several reasons: it permits cruel and unusual punishment in violation of the Eighth Amendment; it infringes on procedural due process by making it difficult for an expatriate to challenge the statute in a United States court; it is not within the power of Congress' jurisdiction in foreign affairs to exile draft delinquents; and it is not a proper exercise of sovereignty or war powers by the government. Mendoza-Martinez, a dual citizen, was born in the U.S. of Mexican parents and went to Mexico in 1942 to avoid the draft. He returned here in 1946 and served a prison term for evading the Selective Service Act. In 1953 he was ordered deported as an alien.

The ACLU also supported the case of Angelika Schneider, a naturalized American whose citizenship was revoked by the State Department. The action was taken under a 1952 law which states that naturalized citizens who live continuously for more than three years in the country of their birth shall solely for this reason lose their American citizenship. Mrs. Schneider had lived here since she was five (from 1939 to 1956) and in 1956 moved to Germany to marry. ACLU attorneys maintained in their brief that the law violates the Eighth Amendment by imposing cruel and unusual punishment by discriminating between native born and naturalized citizens and that it also constitutes deprivation of liberty and property without due process of law in contradiction to the Fifth Amendment. The Federal District Court in Washington, D.C., ruled there was "no substantial issue of constitutionality" on this point, but upheld an additional ACLU contention that Mrs. Schneider had the right to pursue her case further in American courts without seeking temporary entry as an alien. As an alien due process rights are limited.

DEPORTATION. Two aliens whose right to remain in this country were challenged on grounds of alleged past Communist Party membership lost their fight in close decisions by the U.S. Supreme Court. The high court upheld a deportation order against William Niukkanen, a 50-year-old Portland, Ore. house painter who was brought to America as an infant and who was a Communist Party member from 1937 to 1939. The court also held that while an alien had the right to plead the Fifth Amendment in response to a hearing officer's question on Communist Party membership, this still did not relieve him of the obligation of proving that he was a person of good moral character and not affiliated with the Communist Party. The ACLU of Northern California was instrumental in making it possible for a Greek seaman

to retain his status as a parolee receiving medical treatment in the face of Immigration Service attempts to deport him. In another affiliate action, the Colorado Branch finally won a five-year defense of three aged Mexican-born Denver residents when the Justice Department abruptly announced it was dropping deportation proceedings against them. The trio had been charged with membership in the Mexican branch of the Communist Party.

ALIEN RIGHTS. The U.S. Supreme Court decided, by a 5-4 vote, that the government was justified in cutting-off Social Security payments to an alien deported because of past Communist Party membership. The ruling came in the case of Ephram Nestor, a Party member from 1933 to 1939 who was deported to Bulgaria in 1956. His monthly old-age payments of \$55.60 were based on earnings from 1936 to 1955, when he reached retirement age. The high court, in reversing a U.S. District Court, held that social security benefits were not an accrued property right and that a "rational" justification exists for the exclusion of various categories of deportees. The dissenters argued that the denial of benefits abrogated such basic constitutional rights as the right to a judicial trial and protection against ex post facto laws and bills of attainder.

The U.S. Court of Appeals in New York rejected an ACLU request that it grant Justina Soto, a Peruvian citizen seeking permanent residence here, the same due process rights that an American citizen would have. The Union said Miss Soto had not been able to cross-examine Public Health Service physicians who diagnosed her as tubercular, and therefore non-admissible, nor had she been permitted to introduce expert testimony on her own behalf. The actual decision to exclude Miss Soto, said the Union, was made by a Special Inquiry Officer, who did not consider additional evidence.

POLITICAL ASYLUM. The ACLU, continuing its efforts to obtain fair hearings for alien seamen seeking political asylum (*See last year's Annual Report, p. 81.*), filed a friend-of-the-court brief on behalf of 42-year-old Julius Szalajmer, a Polish seaman whom the Immigration Service said is not entitled to ask for entry on political grounds. The government's ruling was made on the basis of the fact that Szalajmer had not disclosed his intention upon landing, but went to the FBI to ask asylum three days later. Declaring that the Immigration Service was wrongfully regarding Szalajmer as a common ship-jumper, the Union said that "any crewman from an Iron Curtain country who risks the inevitable penalty attached to jumping ship of his nationality, should be considered prima facie a refugee from communism. . . . He should be given an opportunity to establish that he is such a refugee and should not be compelled to reship without having been given a hearing on his status. The Federal District Court agreed.

2. Confinement of Mentally Ill

The ACLU intervened in a macabre case in Virginia in which a 34-year-old innocent trash collector was picked up by police on a murder charge and committed to a mental institution all because

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a telepathist received "emanations" while hovering over a year-old grave. The FBI later arrested another man for the crime after more conventional police work. The bizarre chain of events began when a local government hospital psychiatrist offered police the services of a Dutch mental telepathist to help clear up the unsolved murders of Mr. and Mrs. Carroll V. Jackson and their two young daughters early in 1959. Accompanied by state troopers, the savant went to the Virginia grave where the bodies had been found and advised police to search for a man whose business was "either junk or garbage". Police then arrested a trash collector, John Tarmon, and interrogated him extensively. Unable to obtain any evidence linking him with the crime, they induced his wife to sign a commitment petition, resulting in a hurried lunacy hearing being conducted at 3 a.m. with the psychiatrist sitting as one of the three members of the lunacy commission. As a result, Tarmon was found insane and whisked two hundred miles away to a mental institution for the criminally insane. He was released after a lawyer provided by the ACLU filed a habeas corpus petition which prompted the hospital to concede that he was not insane.

The Union in two cases also challenged a District of Columbia law requiring the automatic commitment to St. Elizabeth's Hospital of defendants who have been acquitted because of insanity. The ACLU acted on behalf of Donald Ragsdale, who ran away from the mental institution and worked without incident at a job for 10 months before he was found by police and returned to St. Elizabeth's. His plea for a conditional release was rejected after psychiatrists said that Ragsdale still had a sociopathic personality disturbance. In attacking the law as unconstitutional, the ACLU said that the statute was unfairly based on a "presumption of continuing insanity" in the period between the time the original crime was committed and the jury's verdict. A friend-of-the-court brief filed in the U.S. Court of Appeals said that Ragsdale could have recovered by the time of the trial and should not have been automatically committed. The Union also said that another judicial ruling on his mental condition should have been made before he was sent to the hospital. In the second District of Columbia case, the ACLU was accorded a rare nine-judge hearing before the entire U.S. Court of Appeals. The defendant in this case, Frederick Lynch, had attempted to plead guilty to a bad check charge, with a reasonable expectation of probation. Instead, the plea was refused and the judge found him not guilty by reason of insanity. The automatic commitment law forced Lynch's removal to St. Elizabeth's Hospital.

An investigation was started by the Senate Constitutional Rights Subcommittee into the observance of constitutional guarantees for the mentally ill and those judged mentally ill. "The entire field under which the law has the right to deprive a mentally ill person of his liberty has been the most neglected in the chronicles of American law," the late Senator Thomas J. Hennings said. He announced that two particular areas of inquiry would be the fairness of commitment procedures and the possible modification of the ancient McNaghten Rule under which an accused person claiming insanity as his defense is held responsible for his act if he can distinguish right from wrong. A 1954 decision of the U.S. Court of Appeals in Washington, D.C.

held that a person is not criminally responsible "if his unlawful act was the product of mental disease or mental defect."

The practice of detaining for long periods of time persons accused of federal crimes but found incapable of standing trial caused a federal judge to remark that the medical center in Springfield, Mo. was not to be used as a detention pen for such people. Such a practice, he said, deprives an individual to his right to a speedy trial, to bail, and to confer with counsel in the preparation of his defense. The suit was supported by the center's medical director.

3. Loyalty and Security

FEDERAL ISSUES. A Defense Department directive establishing new procedures in the nation's industrial security program following the U.S. Supreme Court decision in the *Greene* case (*See last year's Annual Report, p. 84-85.*) was criticized by the ACLU for not providing sufficient protections for the rights of confrontation and cross-examination. The order, said the Union, "appears to be a panoply of self-defeating assertions of due process rights repudiating not only the heart of the Court's *Greene* decision, but the implications of that decision—that Fifth and First Amendment rights must be protected." In a congressional aftermath of the same high court opinion, the ACLU opposed a bill passed by the House which sought to nullify the verdict by authorizing an industrial security program giving the Secretary of Defense discretion to decide what information, if any, may be disclosed in a security risk hearing. The bill failed in the Senate. The Union said that the proposal did not meet the basic questions of confrontation, which the Court said was a clearly marked "constitutional danger zone"—such as whether confrontation was constitutionally mandatory in all cases, whether the accusers are idle gossips or professional government undercover agents. The Union also objected to a provision of the proposed legislation extending the security program to all employees of any person or establishment having a contract with a federal military department. This could apply, for example, to every faculty member of any university working on a military project.

By and large, public debate over internal security practices has steadily decreased in the years since Senator Joseph R. McCarthy held sway in the capitol. In two major incidents, however, the issue again became a source of controversy. The most recent example was the defection of two code experts to the Soviet Union, prompting two congressional inquiries into clearance procedures and a statement by President Eisenhower that the entire internal security system bears re-examination. The other incident which provoked national headlines was the disclosure that an Air Force reserve training manual entitled "Communism in Religion" attacked the National Council of Churches as having been successfully infiltrated by Communists. Following a barrage of protest, the manual was withdrawn by Secretary of Defense Thomas S. Gates. This move was hailed by the ACLU which coupled its action with a request that the Defense Department prepare a directive for all military services explaining the fundamentals of civil liberties in view of the attack on constitutional rights contained

in the manual. The most glaring error in the manual, said the Union, is its direct attack on the First Amendment's guarantees of free speech and association through the vaguely defined use of such words as "subversive," "Communist" and "Communist-front". The ACLU also condemned the pamphlet's attack on freedom of religion and freedom of expression for religious groups in making charges against individuals and groups without granting "even the pretense" of due process rights such as cross-examination and confrontation.

STATE AND LOCAL ACTIONS. The ACLU petitioned the U.S. Supreme Court in a friend-of-the-court brief to rehear the case of Willard Uphaus (*See last year's Annual Report, pp. 85-86.*), but the court refused to reconsider its verdict. Uphaus subsequently lost a new appeal to the New Hampshire Supreme Court which claimed that a revision of the state law deprived the Attorney General of the power to require answers to questions concerning persons who attended Uphaus' summer camp. The Union said that the contempt conviction and imprisonment of the elderly director of a pacifist-oriented adult camp raised the issue of an individual's right, in accordance with the protections of the First Amendment, "not to be forced to reveal his political associations to a state investigating committee." Another New Hampshire resident, Hugo De Gregory, was released on bail pending an appeal to the state Supreme Court raising essentially the same question as in the Uphaus case. The ruling in De Gregory's case had no bearing on the imprisonment of Uphaus.

A nine-year effort by the New York Civil Liberties Union finally resulted in the peaceful death of the state's controversial security risk law. The legislature allowed the law to expire after the affiliate showed that it had been unnecessarily expensive to operate. The NYCLU had previously successfully defended three city employees who were dismissed under the law but who were reinstated when courts ruled that their jobs were not sensitive positions. The NYCLU's objections to the law were based on the fact that it did not permit confrontation and cross-examination of witnesses by accused persons, a right which is incorporated under a section of the Civil Service Law which permits the dismissal of any employee who advocates or belongs to any group advocating the violent overthrow of the government.

The ACLU of Southern California won the first favorable loyalty oath ruling in a decade from the state Supreme Court when the tribunal ruled in favor of Mrs. Virginia Wilson, who had been barred from a Los Angeles civil service job because she had refused, 12 years earlier, to sign a now-defunct state loyalty oath. Mrs. Wilson said she was willing to sign an oath requirement in a current law. The court said that "we cannot assume that one who might have been disqualified for reasons of prior associations reflecting on loyalty will forever after remain disqualified for that reason." Such "unreasonable and capricious" judgments, said the opinion, violate freedoms protected by the First and Fourteenth Amendments.

UNEMPLOYMENT INSURANCE. New York state's highest court, the Court of Appeals, upheld one set of arguments raised by

the NYCLU in ruling that the state must pay unemployment insurance benefits to a former employee of the Communist Party, William Albertson. (*See last year's Annual Report, p. 87 for this and other similar cases.*) The court declared, however, contrary to the affiliate's contention, that under the 1954 federal Communist Control Act, the state had the constitutional right to exclude the Communist Party from its unemployment insurance program and refuse to accept taxes from it, as the state has refused to do since 1957. Albertson had been employed by the Party in 1956. Similar verdicts were returned by other state courts in which ACLU affiliates supported appeals. The Pennsylvania Supreme Court reversed a lower court in ruling that employees discharged as security risks because they invoked Fifth Amendment privileges against self-incrimination are nevertheless entitled to unemployment compensation. The verdict applied to Evelyn Darin and Paul E. Ault. And in California, the state Supreme Court found that Marion R. Syrek was entitled to unemployment benefits even though he turned down a job referral to a state job because, on ground of conscience, he refused to take a loyalty oath.

4. Military Justice

COURTS-MARTIAL FOR CIVILIANS. The U.S. Supreme Court handed down verdicts in four cases which, in effect, ended the application of military justice to all civilians with the armed forces overseas who commit any crime. Civilians, as well as dependents of military personnel, are entitled to rights which a court-martial does not provide, the Court said, such as the right to indictment, jury trial and bail protected by the Fifth and Sixth Amendments. The high court had, in 1957, reversed its own previous ruling and said that the wives of two soldiers who committed murder overseas were unconstitutionally convicted by a military court. In its latest decisions, the Court extended this right to all civilians and to non-capital cases as well.

RIGHT OF ASSOCIATION. The ACLU and the Workers Defense League continued their joint efforts to end harassment of prospective draftees and inducted soldiers because of their political beliefs. (*See last year's Annual Report, p. 88.*) The latest protest concerned Pvt. Melvin Stack of New York City who had been drafted after being fully interrogated on his membership in the Socialist Party-Social Democratic Federation. Although Stack had not been found to be a security risk, he has been discriminated against by being moved to four different bases in a little more than a year, preventing his opportunity to serve continuously in any job for which he may be qualified. In addition, said the protest, Stack has been harassed through questioning by the Counter-Intelligence Corps on the political views and associations of a civilian who attended a series of discussion groups which Stack also attended; the series was held in but not sponsored by the Unitarian Church of San Antonio. Persons such as Stack, said the Union and the WDL, "have not sought out the Army. The Army should not seek out a way to degrade them by not permitting them to serve normally." After the protest was made, Pvt. Stack was promoted.

WIRETAPPING

COURT DECISIONS. The U.S. Supreme Court agreed to review a U.S. Court of Appeals decision affirming the right of state officials to use wiretap evidence in state trials. The appellate court verdict lifted a temporary injunction that had been issued on the grounds that under the Federal Communications Act it is illegal to use wiretap evidence and that prosecutors who introduce such evidence in a state court could be guilty of a federal crime. The disclosure of wiretap information is already barred in federal courts. Hinging their decision on the separation of state and federal powers, the majority of the Court of Appeals stated that federal courts should not "interfere with the prosecution of a state criminal proceeding in order to provide an additional means of vindicating any private rights created by the Federal Communications Act." A separate concurring opinion, however, dismissed this line of reasoning. The jurist explained that he voted with the majority only because "I am not willing to assume that a New York State trial judge will permit such evidence to be admitted over the objection of defense counsel. After all," he added, "New York State judges, as we, were bound when they took office, to support the Constitution." The New York Civil Liberties Union filed a friend-of-the-court brief opposing the disclosure of wiretap evidence in the state trial, which involved the prosecution of Burton N. Pugach, a Bronx lawyer, who was charged with conspiracy to maim his fiancée. Before the state trial Pugach had asked the Federal District Court to enjoin the local District Attorney from using wiretap evidence. Before the Court of Appeals acted a New York City judge said he would no longer approve wiretapping applications submitted by the District Attorney's office. Under New York state law, police officials seeking to place a tap must receive permission from a judge. Such court orders are widely disregarded, however, according to a study for the Pennsylvania Bar Association financed by a grant from the Fund for the Republic. In New York City alone, the survey estimated that 13,000 to 21,000 illegal taps are placed annually by detectives and other officials. The estimate was challenged by district attorneys.

CONGRESS. The Pugach ruling by the U.S. Court of Appeals prompted the introduction of companion bills in the Senate and House which would permit wiretapping under state laws if the tap was authorized by a court order and if there were reasonable grounds for believing the interception might disclose the evidence of a crime. Five states; Maryland, Massachusetts, New York, Nevada and Oregon, now permit court-approved wiretapping by law enforcement officials. The ACLU opposed the bills on the grounds that wiretapping, with or without court orders, "is a serious invasion of the right of privacy." The Union added that the proposed laws also violate the Fourth Amendment's guarantees against unreasonable search and seizure. No action was taken by the Congress on these bills.

ILLEGAL POLICE PRACTICES

VAGRANCY AND DISORDERLY CONDUCT. The U.S. Supreme Court, for the first time in its history, set aside a loitering and disorderly conduct conviction for lack of evidence. The unusual verdict came in the case of Sam Thompson, who was supported by the Kentucky Civil Liberties Union in his claim that the convictions were an unconstitutional violation of due process. Thompson claimed he was arrested because he had secured counsel to defend him against an earlier vagrancy charge. The case was appealed directly to the high court because under Kentucky law two \$10 fines were too small to be reviewed by any state court. (*See last year's Annual Report, p. 92.*) In two actions by the Arizona Civil Liberties Union, the affiliate defended a disabled veteran who was arrested for vagrancy after police harrassed him for being unable to lift his hands over his head or pick up a wallet from the sidewalk, and is challenging a Tucson loitering ordinance under which a student and a part-time gardener were arrested although both were self-supporting. Similar arrests in California were opposed by the ACLU of Northern California, which successfully defended two physicians who were out for an early morning stroll, two North Beach residents whose presence irritated a local policeman, and a butcher who was singled out as one of two white patrons in a bar patronized by Negroes. The California state Supreme Court struck down a section of the vagrancy law that defined a "common drunk" as a vagrant. Consequently, persons who were serving sentences as common drunks were released. A South Salt Lake City Justice of the Peace gave six gypsies suspended jail sentences for public drunkenness on condition that an entire gypsy community of 200 be removed across county lines, which they were. The ACLU of Utah called the procedure "a flagrant violation of due process."

ILLEGAL SEARCH AND SEIZURE. The U.S. Supreme Court ruled that suspicion alone is insufficient grounds on which the FBI can make an arrest. The high court set aside the conviction of John Patrick Henry on the charge of unlawfully possessing several cartons of radios because the radios were not discovered until after the arrest.

The ACLU of Southern California is vigorously combatting a tide of false arrests by Los Angeles police, which frequently are accompanied by police brutality. The Illinois Division, ACLU is gathering specific data on complaints that police are searching an increasing number of cars driven by Negroes and Puerto Ricans following minor traffic violations. The Colorado Branch of the ACLU protested the arrest of a newspaperman from Ghana who was taking pictures of Denver policemen subduing and arresting a drunk. The Branch also urged a revision of a police manual which permits police suppression of news pictures "if he deems such action necessary." The Arizona Civil Liberties Union filed a friend-of-the-court brief on behalf of a man convicted of operating an illegal gambling establishment after police broke in without a search warrant.

REGISTRATION AND ROUNDUPS. The California Supreme

Court voided felony registration ordinances in all cities of the state on the ground that state legislation had pre-empted the field of criminal legislation. The ACLU of Southern California supported the test case challenging a Los Angeles ordinance and was also opposing similar ordinances in two other cities. The opinion of the court, while not dealing with the basic constitutional questions, agreed with the affiliate's brief that such laws interfere with the rehabilitation of offenders. A registration law was shelved by the Tucson City Council after representatives of the Arizona Civil Liberties Union and other groups testified the proposal was both a violation of civil liberties and unnecessary. The New York Civil Liberties Union criticized police attempts to fight juvenile crime by means of general roundups and unnecessary force. "By-passing due process of law," said the NYCLU, "will not cure the situation or increase respect for law and order." Protests by the Greater Philadelphia Branch of the ACLU have ended police raids on a number of coffee houses in which dozens of patrons were arrested "en masse," without warrants.

BRUTALITY. A damage suit against the city of Chicago and 13 policemen under the federal Civil Rights Act will be heard by the U.S. Supreme Court. (*See last year's Annual Report, p. 90.*) The family of James Monroe contends that their rights to due process and equal protection of the law were violated when police burst into their apartment, beat them and questioned Monroe on a murder charge. The high court also agreed to hear an Illinois Division, ACLU plea for a writ of habeas corpus on behalf of Emil Reck, whose murder conviction, the affiliate argues, was based solely on a confession beaten out of him. In a rare instance of cooperation, the Illinois State's Attorney has promised the affiliate he will open a grand jury investigation into the fatal shooting of Joseph August by a policeman. The policeman claimed he shot to halt a fleeing rapist, but medical examination showed that the victim was beaten before he was killed by bullet wounds. The ACLU of Northern California provided counsel to three San Quentin inmates who sought writs of habeas corpus on the grounds that their confessions to armed robbery were coerced by third-degree methods and that their detention was unconstitutional and unlawful. Meanwhile, a federal grand jury in Florida indicted 13 state prison officials for abusing prisoners in violation of the section to the U.S. Criminal Code prohibiting a conspiracy to deny constitutional rights; the men were subsequently acquitted.

ILLEGAL DETENTIONS. A bill, backed by the ACLU's Rhode Island affiliate, to strengthen the rights of detained persons by specifying a six-hour time limit for charging a suspect and guaranteeing quick arraignment and the right to speak to his attorney, passed the state Senate but failed in the House. Only three states now have formal time limits for charging suspects after arrest and in one of them, Missouri, the St. Louis Civil Liberties Committee is investigating the apparently common practice of holding prisoners almost up to the 20-hour limit, releasing them, and then putting them under new arrest. Five states require "forthwith" arraignments; 24 require it "without un-

reasonable delay;" and 15 states impose no statutory time limit for arraignments. The Iowa Civil Liberties Union received an apology from Davenport police who said they were not aware of the existence of a law giving prisoners the right to contact their family or lawyer immediately. The police held two youths incommunicado for several hours. The Minnesota Branch of the ACLU is appealing a Duluth police regulation barring drunks who are arrested from using the telephone for six hours after their arrest or after 6 p.m. The Greater Philadelphia Branch of the ACLU protested police detention of a murder suspect for almost 80 hours before he was formally declared a suspect and brought before a judge; and sought to obtain preliminary hearings for disorderly streetwalkers so that they would not be held in jail without hearings for as long as two weeks. The York County chapter of the ACLU of Pennsylvania condemned the jail detention for 71 days without a hearing, of a Puerto Rican migrant farm worker, who was then released for lack of evidence.

SHOPLIFTING. The Illinois Division, ACLU plans to intervene in a suit that will be brought by Michael Caine, a real estate appraiser, against a Chicago department store. Caine's shoplifting conviction—the crime was theft of a 10-cent shopping bag—under a recently passed state law was reversed by a state appellate court. The suit, in which the affiliate will file a friend-of-the-court brief, would test the constitutionality of the statute, which permits merchants to detain suspects on a "probable" suspicion of theft. A new Washington state law permits police to arrest a person without a warrant if the merchant has "reasonable cause" to believe shoplifting was attempted. The ACLU believes such laws violate guarantees of personal security.

POLICE REVIEW BOARD. Following the pioneer efforts of the Greater Philadelphia Branch of the ACLU, Union affiliates in Cincinnati, Detroit, Pittsburgh, Seattle, Los Angeles and Chicago are pressing for the creation of local citizens' review boards to hear civilian complaints against policemen. Minneapolis and York, Pa. recently established such independent boards. After a slow start, the Philadelphia board now has municipal funds, and a permanent staff. Since its creation in 1958 it has heard 107 complaints, 30 of which were forwarded by the affiliate. The campaign by Union affiliates to create such boards, either by statutory authority or through municipal appointment, was one of the most significant due process developments on the local civil liberties scene. The drive was condemned by the National Conference of Police Associations and by the California Department of the American Legion, which labelled the Los Angeles campaign "subversive." One answer to criticism that review boards have a harmful effect on police morale, was the Philadelphia police chief's welcome of the review board.

COURT PROCEEDINGS

ILLEGALLY OBTAINED EVIDENCE. A landmark verdict in criminal law was handed down by the U.S. Supreme Court when it ruled that evidence seized by state officials in violation of the federal

constitution cannot be introduced in a federal trial. In overturning the so-called "silver platter" doctrine, the high court upheld the claim of the ACLU that admission of such evidence would violate the right of privacy guaranteed by the Fourth Amendment. The majority opinion, which extended the heart of the Fourth Amendment to state officers, said that to let federal courts use illegally obtained state evidence was "to encourage subterfuge by federal law enforcement officials." The historic decision was made in two cases, one of which was supported in a friend-of-the-court brief by the ACLU. This proceeding involved the conviction of Jose Torrones Rios for the illegal possession of narcotics in a federal court after a state court ordered a directed verdict of acquittal because the narcotics were illegally seized by Los Angeles police. The other appeal concerned two Oregon men convicted of wiretapping. The wiretap evidence was thrown out of a state court because it was discovered during a search for obscene pictures.

The principles laid down by the U.S. Supreme Court in the Rios decision were previously cited, on the state level, by the New York Civil Liberties Union, which appealed to the state's highest court to discard an ancient rule that certain evidence seized illegally may be introduced at a criminal trial to help convict a defendant. In another New York state case, the ACLU asked the U.S. Supreme Court for a writ of habeas corpus for Samuel Tito Williams, now serving a life sentence for murder. The Union petition said that Williams was convicted solely on the basis of an extorted confession obtained during an unlawful detention prior to arraignment, thus violating his due process rights under the Fourteenth Amendment. The ACLU move is the latest in a 12-year-long case. Another attempt by the Union to set aside a murder confession—this time on the ground that the defendant was about to plunge into a spasm of delirium tremens—was lost in the U.S. Court of Appeals in Washington, D.C. on the technicality that the argument was raised too late for consideration. A third U.S. Supreme Court decision set aside an Alabama robbery conviction because it was based on a confession made when the defendant was apparently insane.

On the state level, the ACLU of Oregon testified before a legislative committee in favor of a law making confessions obtained before arraignment inadmissible but the bill did not pass; the Kentucky Civil Liberties Union completed an exhaustive analysis of the state's century-old Criminal Code and recommended a number of reforms.

CHESSMAN CASE. Caryl Chessman's 12-year battle for a new trial stirred support around the world, inspiring heated controversy over the legality of Chessman's conviction on kidnapping and sex-offender charges and provoking equally fervent debate over the entire question of capital punishment. The ACLU of Southern California, which played a key role in Chessman's many appeals, maintained that Chessman's right to appeal was wrongfully denied because the original trial transcript filed with the appellate court was inaccurate and incomplete, thus denying the author-prisoner his constitutional due process rights. The final execution of Chessman in May, 1960 led to the start of a campaign by the ACLU affiliate to outlaw capital

punishment as cruel and unusual punishment in violation of the Eighth Amendment.

RIGHT TO A FAIR HEARING. A precedent-setting ruling by an Oregon Federal District Court judge supported a brief filed by the ACLU's Oregon affiliate on behalf of state penitentiary inmates who were trying to draw up appeal briefs on their own. The judge said officials cannot prevent prisoners from consulting attorneys, studying law in their cells, or buying law books. The Oregon verdict was cited by the Greater Philadelphia Branch of the ACLU in recommending similar rights to state prisoners. The whole question of determining the circumstances under which convicted indigent defendants may or may not appeal was put before the U.S. Supreme Court by the ACLU in the *McGloin* case which asked the tribunal to end the current multiplicity of standards applied by federal Circuit Court judges and set a single legal standard by which such appeals may be judged. In a 1958 ruling, the U.S. Supreme Court said that the "only statutory requirement for the allowance of an indigent's appeal is the applicant's good faith." Many judges, however, have placed the added factor of the financial strain on the bench and bar by the indigent's appeal above his right to a fair hearing. The Supreme Court denied McGloin a hearing, so the question is still unsettled.

The ACLU of Southern California won two cases in the state courts when a new trial was ordered for 11 Pasadena Negroes convicted of gambling despite evidence that the municipal statute was invoked in a discriminatory manner, and when a Los Angeles municipal court judge upheld the refusal of eight men to testify before a state rackets investigation on the ground that they rightfully feared federal prosecution if they answered the committee's questions.

In other actions by ACLU affiliates, the newly-chartered Eastern Delaware County (Pa.) Chapter won the reversal of a disorderly conduct conviction by a judge who said "I had to charge him with something;" the Colorado Branch was sustained by the state Supreme Court in its charge that a robbery conviction of William Montoya was unfair because persons with Spanish names are "systematically excluded" from county jury lists; the Maryland Branch persuaded a judge to stop asking accused drunks to sign "guilty" statements so that arresting officers would not have to appear in court; and the Washington state Supreme Court agreed with the Union affiliate that a perjuring witness is deprived of due process when a judge immediately cites him for contempt on the spot instead of waiting for a full trial on the perjury charges which includes full legal protections.

RIGHT TO COUNSEL. A bill passed the Congress which would furnish paid counsel to indigent defendants indicted in criminal proceedings in the District of Columbia. The bills which received the strong support of the ACLU, would provide counsel for defendants appearing in the U.S. District Court, Municipal Court, the Juvenile Court and before the Mental Health Commission. The Pittsburgh Chapter of the ACLU of Pennsylvania intends to petition the U.S. Supreme Court for a writ of habeas corpus on behalf of John Simon

who was given a 20-40 year prison term 18 years after conviction for criminal assault and robbery. Simon, contends the affiliate, was deprived of his legal rights by being forced to sign several confessions, although he could neither read nor write, and was not represented by counsel, even though his IQ is between 55 and 61. The California Supreme Court agreed to review a six-month jail sentence received by Lucy Turrieta, an unwed mother who was jailed for breaking a probation order to "cease having illicit sexual relations." When the case first arose, the ACLU of Northern California argued that the order violated rights of personal liberty and privacy guaranteed by the First, Fourth, Fifth and Ninth Amendments and the due process clause of the Fourteenth Amendment. The affiliate's further contention that Miss Turrieta was not advised of her right to counsel in another charge involving alleged fraud in receiving welfare payments was the issue before the state high court.

APALACHIN. The roundup and subsequent trial of 20 participants in a so-called gangland convention held in a private home near Apalachin, N.Y. in 1957 raised serious civil liberties issues, in the opinion of the ACLU and its New York affiliate. Both groups filed a brief with a U.S. Court of Appeals which contended that the convictions were based on evidence seized by police who threw up a road block near the home of convention host Joseph Barbara. Police violated rights of privacy merely for the purpose of an investigation, said the brief, thus invading protections against search and seizure written into the Fourth Amendment. The Federal District Court had ruled that the roadblocks were a proper exercise of the state's power to act when there are reasonable grounds for believing a crime has been committed. The ACLU answered that the stopping of the cars was coercive and did not meet the Fourth Amendment's requirement that probable cause to believe a crime has been committed exists before an arrest without a warrant can be made. Earlier, the ACLU and NYCLU questioned the validity of the government's use of a conspiracy charge in bringing the men to trial. The groups said the indictment really was aimed at alleged false swearing before a federal grand jury and should not have been returned as an alleged conspiracy just because prosecutors did not believe the witnesses' testimony. By this device, they declared, the government circumvented special protections provided in perjury cases. The statement noted the growing use of federal conspiracy indictments and warned that states might use this "legally loose" weapon to curb unpopular minorities, as some Southern states have done in the case of the NAACP.

GRAND JURY TESTIMONY. The New York Civil Liberties Union was active in a number of incidents involving the rights of grand juries and individuals who testify before them. The affiliate sponsored a bill in the legislature, which grew out of the disclosures of TV quiz rigging, which would have barred grand juries from making public presentments which criticize persons or policies but which do not charge the commission of a crime (except in cases

involving public officials). The bill also would apply to another grand jury investigation into Puerto Rican migration and public welfare policies, which the NYCLU sought to block through a taxpayer's suit.

RIGHTS OF JUVENILES. The Washington, D.C. representative of the ACLU urged several reforms in the district's procedures in juvenile law enforcement. Among the recommendations were that no confessions should be taken unless a child's parent or other adult representative is present and that every child or his parent should have the right to a jury trial. In general, said the Union, most juvenile legal procedures are so vague that they would be declared unconstitutional in an adult court. The Metropolitan Detroit Branch of the ACLU joined with a church organization in protesting the frequent practice of a circuit judge of sentencing juveniles to 45 days in solitary confinement on a diet of bread, water and vitamin pills. The affiliate said the punishment was cruel and unusual, in violation of the Eighth Amendment. The Arizona Civil Liberties Union scored a victory on behalf of a youth who was found guilty as a juvenile for petty theft but who subsequently was convicted again when he turned 18 and became subject to the jurisdiction of the Tucson City Court. The affiliate successfully won a dismissal of the second arrest on double jeopardy grounds.

DRIVERS AND THE LAW. The ACLU said that chemical tests for persons charged with drunken driving were "a reasonable exercise of the state's police power to impose conditions to guarantee safety on the public highways." The Union added, however, that a proposed "model law" should include the specific provision that a person be precisely informed that a refusal to take a chemical test will result in revocation of his license. The New York Civil Liberties Union is appealing to the state courts, the denial of a license to a man on the basis of a past criminal record. The state's discretion to refuse a driving license on grounds of political "fitness" was struck down in another state court ruling, which said that the Commissioner of Motor Vehicles had no authority to refuse a license to former Communist Party official Ben Davis, whose conviction under the Smith Act was the basis of the Commissioner's action. The Attorney General of Washington state has held that highway police cannot interfere with the right to travel by establishing spot-checks in order to check drivers' licenses. Union affiliates in Washington state and Northern California insisted that persons convicted of traffic offenses have a right to a jury trial. The Iowa Civil Liberties Union is appealing a new regulation which results in the immediate suspension of a driver's license upon an arrest for drunken driving and before the case is tried. The Greater Philadelphia Branch of the ACLU scored a major victory when the state Attorney General, in response to the affiliate's question, said that the police practice of establishing random roadblocks violates guarantees from unreasonable searches and seizures. (*See last year's Annual Report, p. 94.*)

NEWS MEDIA AND THE COURTS. U.S. Supreme Court Justice

William O. Douglas condemned the photographing or televising of trials as a "vulgarizing process" which undermines the fair administration of justice. Television, he said, increases the anxiety of a witness who knows that millions are watching him while still photographs may "inflame" public sentiment. A public trial, said Justice Douglas, upholding a long-held position of the ACLU, "is for the benefit of the accused, not the press." A judicial committee of the Ohio Supreme Court found that the taping of traffic court proceedings for broadcast later from another location does not violate Canon 35 of the American Bar Association. Canon 35 bars live microphones and cameras from courtrooms. A Cleveland court supported the right of a prisoner to the press if he wants to, reversing a local prosecutor who denied a defendant the right to be interviewed in order to thwart pre-trial publicity. The Georgia Court of Appeals cleared both Atlanta newspapers of contempt on a technicality, but urged the legislature to prevent "trial by newspaper" in the publication of criminal records and other information before a verdict is reached.

INTERNATIONAL CIVIL LIBERTIES

Despite repeated assertions of the United States' support of the "rule of law" in the world, no progress whatever has been made toward American participation in those judicial processes by which law is maintained. An effort was made in the Senate to get rid of the crippling amendment to United States adherence to the International Court of Justice by which the U.S. itself determines what cases allegedly affecting domestic jurisdiction the Court can hear—the first step toward the practical application of law between nations.

The proposal aroused a fury of opposition from isolationist groups, among them the American Legion and the DAR which had backed the earlier Bricker Amendment to quarantine the United States against any international jurisdiction over American law by extending the powers of Congress derived from treaties. Not only was the bill to repeal the so-called Connally amendment bottled up in committee, but the Senate also cut out of the few international treaties that came before it any reference to the International Court. The Union, along with the Administration and the American Bar Association, supported repeal of the Connally amendment, but could not overcome the opposition. A distinguished national committee has been formed to campaign for the repeal of the amendment in the next Congress.

At the United Nations, the U.S. continued to oppose any international treaty for civil rights, reflecting the Administration's deference to the Senate opposition. The human rights covenants remained bogged down in detailed drafting with little likelihood of completion for some years and with doubtful prospects of ratification by any substantial number of nations when completed because of their wide coverage. No limited treaties for human rights were added to the few now in effect. The United Nations remains confined, as it has been for some years, to promoting human rights, not by law, but by studies, conferences and resolutions—all of considerable educational value in impressing the principles on governments and influential sections of public opinion.

The Union continued its efforts at the United Nations through its contacts with the United States Mission, the organization of U.S. national agencies on the United Nations, and the International League for the Rights of Man, with which it is affiliated in company with some thirty national organizations throughout the world. The prospects for progress by international law are slight in an era of cold war and intense nationalism.

U.S. TERRITORIES

PUERTO RICO. Although Puerto Rico is not a territory, but an autonomous Commonwealth associated with the United States by a legal compact, federal laws of a general character apply to it. A bill to define more precisely the relation of federal to Commonwealth law was given extensive hearings, but so much opposition developed that it was not acted upon. The question of Puerto Rico's status continues to be hotly debated in the island between the advocates of statehood, strengthened by the admission of Hawaii and Alaska, the independence movement, now weakened, and the Commonwealth forces in office. Some of the recommendations of the island's Civil Rights Commission, appointed by the governor, were adopted by the legislature. These included elimination of racial discrimination and the strengthening of municipal government, including a provision for minority party representation in city councils.

VIRGIN ISLANDS. Virgin Islanders have long sought both representation in Washington through a resident commissioner like Puerto Rico's, and an elective governor. The Secretary of the Interior for the first time approved a bill in Congress for a resident commissioner elected by the people. It was favorably reported but not passed. The Union supported it. The proposal for an elective governor was deferred; the desire for one has been somewhat appeased by the appointment of a native son as governor.

Since the Virgin Islands are the only area in American jurisdiction without town governments, the islands' committee dealing with all aspects of local government accepted and introduced a bill for that purpose prepared by attorneys for the Union and put into draft form by Judge Albert B. Maris of the U.S. Court of Appeals. The bill was introduced too late in the session for action in 1960.

GUAM. Like the Virgin Islands, Guam wants a resident commissioner in Washington and an elective governor. A bill for a resident commissioner, approved by the Secretary of the Interior, was favorably reported but not passed. The Union supported it.

Despite a considerable degree of self-government, the Navy, which has a major base in Guam, controls all travel under an old executive order, which attorneys think now invalid. A law review article demonstrating its lack of present authority was published by attorneys in Guam and was used by the Union in an effort in Washington to abolish the arbitrary controls. No results have yet been secured. The Navy defends the practice on grounds of security, but avoids every challenge in the courts by issuing permits to the travelers who sue.

SAMOA. American Samoa, unlike the larger Western Samoa, a trust territory which becomes independent in 1961, evidently desires to remain under American control. But it also desires more self-government and the Department of the Interior moved to grant it. A constitution was drafted—the first Samoa has had—and went into effect in April. Although professing the principle of self-government, it leaves in the hands of the Secretary of the Interior a veto power over legislation and court decisions, and retains his power to appoint and remove the governor. The Union criticized the document as inadequate for the purpose of advancing the rights and liberties of the Samoan people, and was assured that experience with these restricted rights would determine what liberalizing changes might be made. Samoans are not American citizens; they are not governed by an act of Congress like other territories. The Secretary of the Interior has practically sole jurisdiction.

OKINAWA. The Ryuku islands, with a population of almost a million Japanese, are governed by an executive order placing almost unlimited power in the hands of a High Commissioner, the general in charge of this strategic U.S. military base.

Following Roger Baldwin's visit to Okinawa in 1959 at the invitation of the High Commissioner, a series of recommendations were made by the Union to the Defense Department and the High Commissioner dealing with greater self-government, civil rights and liberties, liberalization of travel with Japan and revision of the penal code. Both the Defense Department and General Booth, the High Commissioner, have received the Union's suggestions cordially, with expressions of a desire to accord the greatest possible liberties consistent with security.

Some reforms have been made; more are evidently under consideration. The Okinawans, however, are far less interested in reforms or their liberties under a military occupation than in regaining Japanese authority and unity with their own people. However, impractical in view of the international situation, the demand for reversion is ceaseless and universal. The Union has urged closer Japanese-American cooperation in dealing with the Ryukus, and some advances have been made—far too little to affect the passion for return to the motherland or the fears of modern weapons on their little islands.

ACLU AFFILIATES

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ACLU OF SOUTHERN CALIFORNIA*—323 West Fifth Street, Los Angeles 13. Lloyd M. Smith, President. Eason Monroe, Executive Director. Chapters in Beverly Hills-Westwood, Hollywood, Kern County, Los Angeles City College, Los Angeles State College, Long Beach State College, Orange County, Pasadena, San Bernardino-Riverside Counties, San Diego County, San Fernando Valley, San Gabriel Valley, South Bay, Southwest Los Angeles, U.C.L.A., Ventura County, Whittier, and Wilshire District of Los Angeles.

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* Indicates a full-time office is maintained.

† Part-time office maintained.

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New York: NEW YORK CIVIL LIBERTIES UNION*—156 Fifth Avenue, New York 10. Victor S. Gettner, Chairman. George E. Rundquist, Executive Director. Chapters in Westchester County: Central and Long Island Shore; in Nassau: North Shore and Mid-Nassau.

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Oregon: ACLU OF OREGON—P.O. Box 774, Portland 7. Charles Davis, Chairman. George D. Leonard, Secretary.

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* Indicates a full-time office is maintained.

† Part-time office maintained.

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MEMBERSHIP AND FINANCES

Fiscal Year February 1, 1959, through January 31, 1960

On February 1, 1959, the national ACLU and its 24 integrated affiliates had an enrollment of 41,700. By January 31, 1960, by which time there were 27 integrated affiliates, this figure had grown to 45,935, a net increase of 10%. About 7,300 new members were signed up during that period, but more than 3,000 were dropped for failure to renew their memberships. The ACLU of Northern California, which maintains separate membership and finances, had 4,000 members, some of whom also belonged to the national ACLU. Allowing for this overlap, the Union had a total membership of approximately 49,000 at the close of the fiscal year on January 31, 1960.

During the course of the year, membership dues and contributions totaled \$478,600. Income of \$8,100 from other sources brought the total to \$486,700, an increase of 22% over the previous year. Expenditures were \$19,000 less than income.

Bequests from the estates of former members totaling \$44,300 added to the Union's reserve. Net worth rose from \$66,300 at the beginning of the fiscal year to \$139,204 at the end.

The average member contributed \$10.58 during the year. About 15% gave less than \$5, 50% between \$5 and \$9.99, 30% between \$10 and \$24, 3% between \$25 and \$49, 1% between \$50 and \$99, and 1% \$100 or more. Those contributing more than \$200 during the 1959-60 fiscal year were:

Rowland Allen, Indiana; William Prescott Allen, Texas; Mr. and Mrs. John P. Axtell, New York; Mrs. Helen D. Marston Beardsley, California; John Becker, Italy; Laird Bell, Illinois; William Benton, New York; Mr. and Mrs. Edgar Bernhard, Illinois; Daniel J. Bernstein, New York; Alfred H. Billstein, Ohio; Dr. Nelson M. Blachman, New York; Mrs. Sylvia Braverman, California; Miss Julia C. Byrant, Connecticut; Mrs. Esther Smith Byrne, California; Mr. and Mrs. Roger S. Clapp, Massachusetts; Hon. Joseph Sill Clark, Jr., District of Columbia; Miss Fanny Travis Cochran, Pennsylvania; Edward T. Cone, New Jersey; Professor and Mrs. Albert Sprague Coolidge, Massachusetts; Rev. Stephen T. Crary, Rhode Island; Miss Connie Y. Cuadrez, California; Mr. and Mrs. A. Delacorte, New York; Mrs. Margaret DeSilver, New York; Robert T. Drake, Illinois; Edward J. Ennis, New York; W. R. Everett, Minnesota; Henry G. Ferguson, District of Columbia; Walter D. Fisher, Kansas; Walter T. Fisher, Illinois; Mrs. Stanton A. Friedberg, Illinois; Harvey Furgatch, California; Mr. and Mrs. J. W. Gitt, Pennsylvania; William Goffen, New York; Herbert G. Graetz, Massachusetts; Mr. and Mrs. Philip H. Gray, California; William Roger Greeley, Massachusetts; Richard Grumbacher, Maryland; Mr. and Mrs. Wilbur G. Hallauer, Washington; Mrs. Donald M. Harris, New York; Mr. and Mrs. Gilbert Harrison, District of Columbia; Hatfield Electric Co., Indiana; Henry Hirschberg, New York; Davis R. Hobbs, Pennsylvania; B. W. Huebsch, New York; International Ladies Garment Workers' Union, New York; Mrs. Sophia Yarnall Jacobs, New York; J. M. Kaplan, New York; Mr. and Mrs. Albert Kaufman, New Jersey; Dr. and Mrs. W. S. Kiskadden, California; Mrs. William Korn (for the Mayer Family), New York; Dr. Austin Lamont, Pennsylvania; Robert Maxwell Lauer,

Delaware; Carter Lee, District of Columbia; Hon. Herbert H. Lehman, New York; Alan Jay Lerner, New York; Mrs. V. G. List, Connecticut; Mrs. Sanford Lowengart, California; E. B. MacNaughton, Oregon; Mr. and Mrs. Patrick Murphy Malin, New York; Arnold H. Maremont, Illinois; H. Zacharias Marks, Florida; Merle H. Miller, Indiana; William W. Mullins, Pennsylvania; Richard Ottinger, New York; Mrs. Joan B. Overton, New York; Mrs. Gertrude Pascal, New York; Dr. Linus Pauling, Jr., Hawaii; Dr. and Mrs. Robert B. Pettingill, Florida; Frank C. Pierson, Pennsylvania; Dr. Dallas Pratt, New York; George D. Pratt, Jr., Connecticut; Mrs. Jane A. Pratt, Connecticut; Robert O. Preyer, Massachusetts; H. Oliver Rea, New York; Mr. and Mrs. Chester Rick, New York; Thatcher Robinson, Illinois; Miss Charlotte Rosenbaum, Illinois; Walter S. Rosenberry III, Colorado; Mrs. Alan Rosenthal, District of Columbia; Sidney M. Roth, Illinois; Mrs. Alice F. Schott, California; Mrs. Stephen Schott, Oregon; R. H. Scott, California; Mrs. Herbert Sieck, Illinois; Mrs. Eleanor Lloyd Smith, California; Lloyd Melvin Smith, California; Dr. and Mrs. John Spiegel, Massachusetts; Mr. and Mrs. Arthur I. Stephens, Illinois; J. David Stern, New York; Ann R. Stokes, Pennsylvania; Mr. and Mrs. James Struthers, New Mexico; Tim Taylor, Virginia; Mr. and Mrs. Lee Thomas, Kentucky; Willis Thornton, Ohio; Miss Anne L. Thorp, Massachusetts; John B. Turner, New York; Mr. and Mrs. Frank Untermeyer, Illinois; George Wallerstein, California; Mrs. George West, California; Mariquita West, California; Duane E. Wilder, Pennsylvania; Edward Bennett Williams, District of Columbia; Miss Mary C. Wing, New York. Three anonymous contributions of \$1,000, of \$250 and of \$200 were received.

In addition to its regular fiscal operations, the Union continued to supervise the Roger N. Baldwin-ACLU Escrow Account, administered by the Fiduciary Trust Company. During 1959-60 the Account's book-value Net Worth remained almost stationary at \$35,500, but the market value of its securities declined from approximately \$66,600 to \$58,000.

1959-60 MEMBERSHIP ENROLLMENT

NUMBER OF MEMBERS FEBRUARY 1, 1959	41,700
New members enrolled during fiscal year	7,312
Dropped: deceased, resigned, delinquent, etc.	3,077
<i>Net increase during fiscal year</i>	4,235
NUMBER OF MEMBERS JANUARY 31, 1960	45,935

1959-60 FINANCIAL REPORT

INCOME

	<i>Number</i>	<i>Amount</i>
New members' initial dues payment	7,312	\$53,578.71
Membership renewals	32,149	350,420.95
Special Funds contributions	7,730	74,599.33
TOTAL MEMBERSHIP INCOME	47,191	\$478,598.99
Executive Director's honorariums		1,420.64
Sale of pamphlets		849.31
From ACLU-Roger N. Baldwin Escrow Account		3,600.00
TOTAL REGULAR INCOME		\$484,468.94
Extraordinary contributions earmarked for national office Legal Expansion Fund		2,225.50
TOTAL CURRENT INCOME		\$486,694.44
Bequests from the estates of former members and friends:		
Adelaide Farrar	\$19,057.33	
Margaret G. Phoutrides	10,000.00	
Ruth S. Tolman	9,000.00	
Ruth F. Weinberg	2,500.00	
Walter Verity	2,267.77*	
H. C. Turner	900.00	
Arthur M. Hyde	500.00	
William Norton	118.73	
		\$44,343.83
TOTAL ALL INCOME		\$531,038.27

* \$1,500 went to Illinois Division.

EXPENDITURES

TRANSFERS TO INTEGRATED AFFILIATES from joint membership income, i.e., all contributions received from members in each affiliate's area, except those earmarked for specific national or local purpose.

	<i>Affiliate's Net Worth 1/31/60</i>	<i>Affiliate's additional local income</i>	<i>TRANSFERRED from joint memb. income</i>
Southern California	\$13,917.63	\$13,979.94	\$65,435.46
N.Y.C.L.U.	20,200.00	7,500.00	28,943.88
Illinois Division	2,867.00	5,208.00	24,324.62
Penna. & Phil. Brs.	2,522.00	1,415.00	19,474.30
C.L.U. of Massachusetts	4,921.54	50.00	17,020.59
Ohio C.L.U.	2,715.76	50.00	10,271.10
ACLU of Washington ...	897.56	681.99	5,857.37
Minnesota Branch	2,668.00	15.00	5,197.80
Indiana C.L.U.	(2,578.41)	202.15	4,877.33
Colorado Branch	75.46	770.19	3,936.10
Florida C.L.U.	2,422.61	958.00	3,667.75
Maryland Branch	252.03	none	2,999.10
Connecticut C.L.U.	2,014.66	718.50	2,594.90
Detroit Branch	880.00	587.50	2,260.00
St. Louis Committee	1,600.00	none	1,462.00
Kentucky C.L.U.	(417.00)	500.00	1,442.36
Wisconsin C.L.U.	2,100.00	none	1,103.00
ACLU of Oregon	1,141.86	2,242.50	974.55
Louisiana C.L.U.	910.37	none	707.30
Iowa C.L.U.	404.42	50.00	689.70
Arizona C.L.U.	152.21	574.89	379.60
Niagara Br. (Buffalo) ...	297.28	none	305.80
Rhode Island C.L.U.	147.82	none	269.90
C.L.U. of Utah	154.50	none	250.40
Lansing C.L.U.	324.13	none	191.20

\$204,636.11

EXPENDITURES (*continued*)

MEMBERSHIP OPERATIONS

Salaries	\$44,027.50
New promotion	19,069.22
Annual renewal	8,645.63
Semi-annual special appeals	4,708.42
	\$76,450.77

FUNCTIONAL OPERATIONS

Salaries	\$68,035.33
Legal work—cases, incl. A. G. Hays Memorial	8,613.96
(<i>See Litigation on opposite column</i>)	
Educational expenses	24,478.22
(<i>See Education on opposite column</i>)	
Miscellaneous	10,592.77
(<i>See Functional Miscellaneous on page 80</i>)	
	\$111,720.28

EXECUTIVE OPERATIONS

Salaries	\$38,103.55
Administrative	1,073.71
Board of Directors and general committees	759.28
Miscellaneous corporate and affiliate services	2,248.70
	\$42,185.24

JOINT MEMBERSHIP, FUNCTIONAL AND EXECUTIVE

EXPENSES	32,743.68
(<i>See Joint Expenses on page 80</i>)	
OPERATING SURPLUS	18,958.36
	\$486,694.44

LITIGATION*

Wilkinson Un-American Activities Committee test case	\$1,256.67
--	------------

* Full details on these cases will be found elsewhere in this Report. It should be noted that expenditures indicated above cover only out-of-pocket items such as printing of briefs, travel, long distance phone calls, etc. The Union's cooperating attorneys work without fees.

Worthy v. State Department passport case	655.72
Immigration cases	596.70
Oregon Text Book case	511.72
Globe and Nelson v. Los Angeles, security case	478.95
Miscellaneous Southern Legal Matters	323.58
Paul Dwyer due process case	322.80
Mackey v. Mendoza Martinez expatriation case	276.28
P.O. Censorship	199.57
McGloin v. U.S. appeal in forma pauperis case	156.10
Thodos housing discrimination case	150.48
WDAY v. Farmers' Education Union	146.20
Williams v. Lavalie habeas corpus case	145.97
Rios v. U.S. illegal search and seizure case	113.60
Barenblatt Un-American Activities Committee test case	100.98
Eaton v. Price search warrant case	100.00
61 cases under \$100	1,041.16
Legal work—New York office and Washington, D.C. .	358.71
	\$6,935.19

ARTHUR GARFIELD HAYS MEMORIAL FUND

Contribution	1,000.00
Expenses incurred—fund-raising, etc.	678.77
	\$8,613.96

EDUCATIONAL EXPENSES

<i>Civil Liberties</i> , printing costs	\$11,104.75
Annual Report, printing costs	6,302.29
Feature Press Service	1,593.51
Pamphlets, reprints, literature purchased	1,133.49
Roper Research on ACLU questionnaire	1,058.49
National Civil Liberties Clearing House	1,000.00
Miscellaneous	2,285.69
	\$24,478.22

FUNCTIONAL MISCELLANEOUS EXPENSES

8

Domestic Committees	\$2,064.09
International Committee	298.64
Travel, hospitality, meetings, contributions	2,642.74
Postage, telephone, telegraph	1,662.69
Printing, stationery, supplies; lettershop mailing	963.55
Files, archives, library, clipping service	877.19
Miscellaneous	2,083.87
	\$10,592.77

JOINT MEMBERSHIP, FUNCTIONAL AND EXECUTIVE EXPENSES

Rent and cleaning	\$9,493.50
Postage	5,954.39
Telephone	3,166.66
Supplies	2,667.02
Stationery and printing	1,234.71
Payroll taxes	3,985.59
Insurance	1,395.69
Audit	2,000.00
Equipment and repairs	561.59
Library and archives	533.77
Bank charges	692.61
Travel and hospitality	506.09
Meetings	154.34
Telegraph	83.05
Lettershop and mailing	15.30
Miscellaneous	299.37
	\$32,743.68

BALANCE SHEET

as of January 31, 1960

ASSETS

Cash	\$97,106.13
Accounts receivable:	
Airline deposit	425.00
Bail deposit—Wilkinson case	1,000.00
From affiliates	8,219.81
Pledge	1,000.00

Loans receivable:

Illinois Division	250.00
Indiana Civil Liberties Union	826.23
Ohio Civil Liberties Union	550.00
Greater Philadelphia Branch	423.00

Prepaid expenses due in 1960-61 fiscal year:

Fortieth Anniversary expenses	1,000.00
Special Funds Appeal	9,500.00
Advance on 39th Annual Report and 40th Anniversary edition of <i>Civil Liberties</i>	11,000.00

Investments (book value)	11,075.00
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TOTAL ASSETS	\$142,375.17
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LIABILITIES

Payroll taxes payable	\$2,442.98
Staff saving bond purchases	125.35
R. N. Baldwin drawing account	2.60
R. N. Baldwin salary account	600.00

TOTAL LIABILITIES	\$3,170.93
-------------------------	------------------

NET WORTH, January 31, 1959 \$66,327.05

NET WORTH

Bequest reserve \$83,848.89

Endowment reserve 11,075.00

Working capital 44,280.35

TOTAL NET WORTH \$139,204.24

TOTAL, LIABILITIES AND NET WORTH \$142,375.17

Roger N. Baldwin-ACLU Escrow Account

NET WORTH, February 1, 1959 \$35,581.13

Income from investments 2,802.45

Paid to ACLU for Mr. Baldwin's part-time services 3,600.00

Custodian fee 150.00

EXCESS, expenditures over income \$947.55

NET WORTH, book value,* January 31, 1960 \$34,633.58

* Market value of securities in Account on January 31, 1960: \$58,029.88.

Certificate

In our opinion, the attached financial statements present fairly the financial position of American Civil Liberties Union, Inc., and the R. N. Baldwin Escrow Account at January 31, 1960, and the results of their respective operations for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

APFEL AND ENGLANDER

Certified Public Accountants

A copy of the complete auditor's report will be sent on loan to any member on request. The ACLU's financial and accounting methods are endorsed by the National Information Bureau, 205 East 42nd Street, New York 17, N.Y., a private agency organized to help maintain sound standards in philanthropy and to provide contributors with information and advice.

Contributions to the American Civil Liberties Union are not deductible for income tax purposes, since the Treasury Department has held that a "substantial part" of the Union's activities is directed toward influencing legislation. The ACLU itself pays no taxes other than Social Security, Old Age Benefit and Workmen's Compensation levies in connection with its employees' salaries.

JOIN THE AMERICAN CIVIL LIBERTIES UNION*

AMERICAN CIVIL LIBERTIES UNION

156 Fifth Avenue, New York 10, N.Y.

The ACLU needs and welcomes the support of all those—and only those—whose devotion to civil liberties is not qualified by adherence to Communist, Fascist, KKK, or other totalitarian doctrine.

Here is my \$ membership contribution to the work of the ACLU, fifty cents of which is for a one-year subscription to *Civil Liberties*.

PLEASE PRINT CLEARLY

NAME

ADDRESS

CITY ZONE STATE

Occupation

* If you already belong, won't you pass this Annual Report on to a friend when you have finished it, urging him or her to join the ACLU.

Annual Report, 1959-60

YOU HAVE AN INTEREST

IN CIVIL LIBERTIES!

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ACLU members in these categories receive *Civil Liberties* each month, this 1959-60 Annual Report (and future annual reports), and their choice of pamphlets:

PARTICIPATING MEMBER\$100			
COOPERATING MEMBER	\$50	SUPPORTING MEMBER	\$10
SUSTAINING MEMBER	\$25	CONTRIBUTING MEMBER	\$ 5

Associate Members at \$2 receive *Civil Liberties* and the Annual Report. Weekly bulletin is available on request to contributors of \$10 and over. Members living in the areas listed on pp. 73-74 (with the exception of ACLU of Northern California which maintains separate membership and finances) also belong to the respective local ACLU organization, without payment of additional dues. If you live in one of these areas, it will automatically receive a share of your contribution. The more you give the larger its share. *Be as generous as you can!* See coupon on inside cover.

BEQUESTS TO THE ACLU

Between February 1, 1950 and January 31, 1960, the national American Civil Liberties Union has received by bequest a total of \$152,000 from the estates of forty-two persons. (Some affiliates have also received bequests.) The legacies have ranged from \$20 to \$34,000.

The Union regards such gifts with special pride and special obligation, because they represent the legators' final dedication to the preservation of civil liberties in our democracy.

Anyone desiring to make such provision in his or her will may wish to use this language: "I give \$..... to the American Civil Liberties Union, Inc., a New York Corporation." If the testator is in an area where there is an ACLU affiliate, and wishes the affiliate to share directly in the bequest, there should be added to the foregoing, "of which \$..... shall be applied to the use of its affiliate."

Price of this pamphlet: 75¢ postpaid.
Quantity prices on request.

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61-190-801X

January 6, 1960

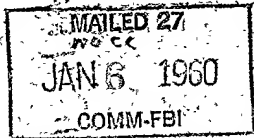
Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York 10, New York

Dear Mr. Malin:

Thank you for your letter dated December 30, 1959, concerning the resume of data on the American Civil Liberties Union's background and activity. As you are aware from my previous letter the resume was prepared in the Department of Justice to which I am taking the liberty of referring a copy of your letter. I appreciate your thoughts in connection with this matter.

Sincerely yours,

J. Edgar Hoover



1 - Assistant Attorney General
Robert V. Kramer

NOTE: Malin states that in his opinion there is a problem with the FBI's current documentation of the ACLU. As pointed out in the Bureau's letter dated 11/16/59 only the Los Angeles Chapter of the ACLU was documented. The resume referred to by Malin was prepared by the Conscientious Objector Section, Office of Legal Counsel, Department of Justice, and not by the Bureau. Malin enclosed a number of commendations from various Government officials, including President Eisenhower, former President Truman, former Governor Dewey and General MacArthur. These statements are all laudatory of the ACLU but would be too voluminous for a documentation.

- Tolson
- Mohr
- Parsons
- Belmont
- Callahan
- DeLoach
- Malone
- McGuire
- Rosen
- Tamm
- Trotter
- W.C. Sullivan
- Tele. Room
- Gandy

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Washington Office — 1612 Eye Street, N.W., Washington 6, D.C.; Lawrence Speiser, *Director*; Penelope L. Wright, *Executive Assistant*

December 30, 1959

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Washington 25, D. C.

Dear Mr. Hoover:

Thank you very much for your November 16 letter replying to my November 12 letter concerning the resume on [redacted] who claimed conscientious objector status under the Universal Military Training and Service Act. We were surprised to note that the Union's policy statement regarding Communist and other totalitarian groups, which was included in the original FBI resume, was deleted by the Conscientious Objector Section, Office of the Legal Counsel, Department of Justice; as you can see from the enclosed letter to Attorney General Rogers, we have asked for a prompt investigation and explanation.

We want again to present the problem raised by the inclusion in the resume of data concerning an organization's background and activity. From the experience of the early 1950s, we know that persons frequently regard as entirely correct citations made by various governmental agencies, regardless of the accuracy of these reports. The fact that such citations come from a government source is enough to mark them as authentic. Therefore, if such official information is to be included in the resumes, we suggest that to be fair both to the registrant and the organization in question, other government information be included as well. In the case of the ACLU, we think it would have been appropriate to include not only our own comment, as the FBI did, but the statements of various government officials concerning the ACLU-- particularly their view that we are not a Communist organization or sympathetic to Communism. I enclose a set of commendations, including statements by such eminent Americans as President Eisenhower, former President Truman, former Governor Dewey and General MacArthur, which is a sample of what we have in mind. If the file material is so voluminous that all of it cannot easily be incorporated into

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23 JAN 14 1960

WITH ORGANIZED AFFILIATES IN TWENTY-THREE STATES
AND 800 COOPERATING ATTORNEYS IN 300 CITIES OF 48 STATES

Mr. J. Edgar Hoover

- 2 -

December 30, 1959

the resume, then we suggest that the sources of information and opinion, pro and con, should be listed or, less desirable, a fair sampling of the material be included.

Yours sincerely,

P

Patrick Murphy Malin
Executive Director

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE

NEW YORK 10, N. Y.

347

December 30, 1959

The Honorable William P. Rogers
Attorney General of the United States
Department of Justice
Washington 25, D. C.

Dear Mr. Rogers:

We recently had called to our attention the resume supplied to a draft registrant in connection with his hearing on appeal from the denial by the local board of his claim as a conscientious objector under Section 6 (j) of the Universal Military Training and Service Act (50 U.S.C. App. 456) (j)). The resume derogated from the American Civil Liberties Union by citing an old -- and generally discredited -- citation of the California Fact-Finding Committee on Un-American Activities to the effect that the ACLU is "heavily infiltrated" with Communists and fellow travellers, and frequently follows the Communist Party line and defends Communists. The enclosed exchange of letters with FBI Director Hoover discusses this problem in full.

We call your attention to the second paragraph of Mr. Hoover's letter of November 16 and ask why the ACLU's policy statement on Communist and other totalitarian groups that was in the original FBI resume was deleted from the resume submitted to the draft registrant. The elimination of this statement is shocking, for it leaves the conclusion that an effort was made to besmirch the reputation both of the ACLU and of the draft registrant. We respectfully request that an investigation quickly be made into this matter and that we be informed promptly of its outcome.

Yours sincerely,

Patrick Murphy Malin
Executive Director

BC: J. Edgar Hoover

61-190-801X

ENCLOSURE

Text of a telegram sent by President Eisenhower to the Philadelphia Fellowship Commission on the occasion of a dinner honoring the following ten civil liberties-civil rights organizations:

①

American Civil Liberties Union
American Jewish Committee
National Urban League
National Association for the Advancement
of Colored People
American Federation of International Institutes
Anti-Defamation League of B'nai B'rith
American Jewish Congress
National Conference of Christians and Jews
Catholic Interracial Council
National Council of the Churches of Christ
in the U.S.A.

THE WHITE HOUSE
WASHINGTON DC
March 16, 1953, 4:30 p.m.

MAYOR JOSEPH S. CLARK, JR.
CARE PHILADELPHIA FELLOWSHIP COMMISSION
260 SOUTH 15 STREET, PHILADELPHIA

I AM SURE THE PEOPLE OF THE UNITED STATES JOIN THE PHILADELPHIA FELLOWSHIP COMMISSION, FELLOWSHIP HOUSE AND THE PHILADELPHIA COMMUNITY IN HONORING THE WORK OF THE DISTINGUISHED PRIVATE AGENCIES WHICH ARE DOING SO MUCH TO GUARD CIVIL RIGHTS AND TO ADVANCE HUMAN RIGHTS IN OUR NATION. THEIR ACHIEVEMENTS OVER THE RECENT DECADES HAVE HELPED TO TRANSLATE INTO REALITY OUR RELIGIOUS AND DEMOCRATIC IDEALS.

I AM HAPPY TO SEND CORDIAL GREETINGS TO YOU; TO PAUL HOFFMAN, WHO CAN SPEAK SO ELOQUENTLY OF OUR IDEALS OF HUMAN DIGNITY AND FREEDOM; TO THOMAS C. EDGAN, CLARENCE E. PICKETT, DR. FRED D. WENTZEL, AND TO ALL THE MEMBERS AND FRIENDS OF THE FELLOWSHIP COMMISSION AND FELLOWSHIP HOUSE WORKING SO EFFECTIVELY FOR JUSTICE AND EQUALITY OF OPPORTUNITY FOR ALL PEOPLE IN YOUR COMMUNITY.

DWIGHT D. EISENHOWER

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61-190-801X
~~125-80855-3~~
ENCLOSURE

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GREETINGS FROM PRESIDENT HARRY S. TRUMAN
to the
AMERICAN CIVIL LIBERTIES UNION

The White House

November 24, 1945

Dr. John Haynes Holmes, Chairman Board of Directors
American Civil Liberties Union
170 Fifth Avenue
New York, New York

I send you warm greetings upon the completion of twenty five years of fighting for the civil rights of all Americans. The Union is most publicized for its protection of minority groups but I know that your over-all objective is that inherent constitutional privileges be granted to every person, citizen or alien, with no thought of race, color or creed. I know, too, that you fight for the rights of majorities threatened by illegal monopoly and repression.

I believe with your members that whatever a man's political thinking, whatever his background, environment or education, he must, if he be a real American, respect the aims of organizations such as yours. The integrity of the American Civil Liberties Union and of its workers in the field has never been, and I feel, never will be questioned. Officers, directors and members of the Union have performed outstanding service to the cause of true freedom.

/s/ HARRY S. TRUMAN

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ENCLOSURE

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GREETINGS FROM GOVERNOR THOMAS E. DEWEY
TO THE
AMERICAN CIVIL LIBERTIES UNION

Executive Mansion, Albany, N.Y.
November 23, 1945

Dr. John Haynes Holmes,
Chairman, Board of Directors,
American Civil Liberties Union

Dear Dr. Holmes:

I am happy to send warm greetings to all members of the American Civil Liberties Union and all men and women present at the national convention you are holding on November 24th, on the theme "What's Ahead for American Liberties."

It is a matter of just pride to the citizens of New York State that the American Civil Liberties Union was incorporated under the laws of the Empire State on whose soil so many hotly contested struggles for the liberty and dignity of the individual were fought and won, struggles not only on the battlefield but in the courts and other arenas of the unending contest for freedom.

Of the quarter century of your existence you have established an enviable record. You have established, also, beyond all possible doubt, proof that the American Civil Liberties Union is an essential part of American life. It is essential not merely to the individuals whom you have helped against injustice, but to the self-respect of the community and of all citizens who appreciate our priceless heritage of personal, political and religious liberty and regard for the dignity of the individual.

The war for freedom is an endless one. The worst attacks are those which do not affect the majority - the insidious attacks. Without the American Civil Liberties Union there would be no organization to take up the cudgels for lone, oppressed individuals.

It has been inspiring to observe that the American Civil Liberties Union has stood unwavering on the principle of defending everybody's rights without distinction. It has championed the rights of unions and of employers, of union workers and non-union workers, of Catholics, Protestants and Jews. On the racial front it has stood firmly for the liberty of every racial minority.

It is a pleasure, therefore, to hail the gallant part that the American Civil Liberties Union has taken in upholding the principles for which this Republic was founded and to extend my warm good wishes for continuing success.

Sincerely yours,

61-190-801X

/s/ Thomas E. Dewey

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ENCLOSURE

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GENERAL HEADQUARTERS

SUPREME COMMANDER FOR THE ALLIED POWERS

Office of the Supreme Commander

(in handwriting) not addressed, but included in greetings on occasion of retirement, in 1950.

Roger Baldwin's crusade for civil liberties has had a profound and beneficial influence upon the course of American progress. With countless individuals finding protection in the nobility of the cause he has long espoused, he stands out as one of the architects of our cherished American way of life.

DOUGLAS MACARTHUR

Tokyo, Dec., 30, 1949.

3/4/53

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EX-105-80855-3

LUCIUS D. CLAY
General, retired
U. S. Army

Ashville, N. C.
Nov. 27, 1949

Dear Minister Holmes:

It is with great regret that I learn that Roger Baldwin is retiring as Executive Director of the American Civil Liberties Union.

At my request he visited Germany to investigate our progress in this field and to give us his recommendations as to further steps we might take. His objectivity, sincerity of purpose, and ability to separate the wheat from the chaff, made his visit of exceptional value to both Military Government and to the Germans. I am sure that within a short time he did much to instill his faith and beliefs in German minds.

While doing so, he helped all of us who had associated with him, just as through the years he has helped our country to a better understanding of tolerance and the dignity of man. We shall miss his constructive influence.

Sincerely yours,

LUCIUS D. CLAY

Minister John Haynes Holmes
Chairman, Board of Directors
American Civil Liberties Union
10 Park Avenue
New York 16, New York

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ENCLOSURE

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Excerpts from letter by John J. McGloy, U.S. High Commissioner for Germany
to Roger Baldwin on November 14, 1950.

"In closing please accept this letter as an
expression of my personal appreciation and the ap-
preciation of my staff for your generous interest
and invaluable advice in helping us to carry out
our mission here in Germany."

3/4/53

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ENCLOSURE

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT CHIEF OF STAFF, G-2, INTELLIGENCE
WASHINGTON 25, D. C.

23 May 1955

Mr. Patrick M. Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York 10, N. Y.

Dear Mr. Malin:

Reference is made to your letter of 28 March 1955 addressed to Major General R. C. Partridge, and to General Partridge's reply thereto dated 23 April 1955, indicating his referral of your letter to this office.

You will recall that in your letter you stated that your attention has been drawn to "the case of a soldier who is challenging his general discharge under honorable conditions," and that you understand that "one of the items of derogatory information cited in the case is a CIC report that the individual is a member of the American Civil Liberties Union, which is described as 'Communist-dominated.'"

The Department of the Army does not consider the organization you represent to be "Communist-dominated." Membership in the American Civil Liberties Union is not a factor in decisions pertaining to security clearances which are made by responsible field commanders, nor in security adjudications made by the Department of the Army.

Sincerely,

/s/

Harry O. Paxson
Brigadier General, GS
Deputy ACofS, G-2 (ZI Opns)

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ENCLOSURE

TREASURY DEPARTMENT

WASHINGTON

November 3, 1953

Dear Mr. Malin:

As a result of your discussions with a representative of the Department of Justice, it was called to our attention that one of our Special Agents in the Internal Revenue Service, while investigating an application by an attorney for enrollment to practice before this Department, inquired whether the applicant was a member of the American Civil Liberties Union, the inquiry being such as to suggest by the context that the American Civil Liberties Union might be considered by the Agent as a subversive organization.

We regret that this occurred, and have taken steps to prevent its recurrence. Appropriate instructions are being issued to field agents to exercise care that bona fide patriotic organizations are not referred to, in context or otherwise, in such a manner as to suggest that they are subversive.

Very truly yours,

/s/ H. Chapman Rose

Assistant Secretary of the Treasury

Mr. Patrick M. Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York
New York

61-190-801X

~~105-80855-3~~

ENCLOSURE

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK 10, N. Y.

EXTRACTS FROM TRANSCRIPT OF PROCEEDINGS
OF COMMITTEE ON UN-AMERICAN ACTIVITIES,
HOUSE OF REPRESENTATIVES, OCTOBER 23, 1939.

The following statements were made by chairman Martin Dies in the course of the testimony of Dr. Harry F. Ward of New York, then National Chairman of the ACLU. Dr. Ward testifying in behalf of another organization had declined to testify for the ACLU on the ground that its counsel had requested a personal appearance. The Committee denied the request with the following colloquy:

THE CHAIRMAN. This committee found last year, in its reports, there was not any evidence that the American Civil Liberties Union was a Communist organization. That being true, I do not see why we would be justified in going into it. I mean, after all, they have been dismissed, by unanimous report of the Committee, as a Communist organization.

MR. WHITLEY. But they have requested that they be heard.

MR. CHAIRMAN. Yes; they have requested to be heard.

MR. STARNES. I want to say, Mr. Chairman, that some of these gentlemen were so vociferous last year in a statement in the press, on the outside about being denied an opportunity to be heard, I want to insist that they be given the privilege of being heard....

THE CHAIRMAN. So far as the Chair is concerned -- I do not know what the other gentlemen think about it -- here is an organization that the Committee has already said is not a Communist organization. Now, there is no necessity, as I see, to go into it at all.

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ENCLOSURE

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FAVORABLE COMMENTS BY THE CHICAGO TRIBUNE AND THE WASHINGTON STAR OVER
ACLU INTERVENTION IN BEAUHARNAIS CASE

CIVIL LIBERTIES

The United States Supreme Court has agreed to hear the appeal of Joseph Beauharnais who was fined \$200 in the Municipal court here on the charge of distributing circulars which tended to defame the Negro race. He was convicted under an Illinois statute outlawing publications which expose the members of any race or creed to contempt, derision, or obloquy, and the conviction was sustained by the Supreme Court of Illinois. Beauharnais contends that the law is unconstitutional because it denies freedom of speech and of the press.

It is greatly to the credit of the Civil Liberties Union that it is bringing the appeal on Beauharnais' behalf. Beauharnais' circulars, to judge from a few we have seen, are as distasteful to the members of the Civil Liberties Union as they are to us and to everyone else who isn't a bigot. Accordingly, the decision to come to Beauharnais' defense could not have been an easy one to reach. That it was the correct decision, however, we do not doubt for a moment.

The law is a bad one if only because it can be used to prevent public discussion of matters on which men feel deeply; if they are prevented from expressing themselves in words, which can be debated, they will be more likely to express themselves in deeds of violence. As has often been said, the right of free speech is meaningless if it does not include the right to say things which will seem utterly wrong to most people. Men are not free to express themselves if they are free merely to say things which will give no offense.

Chicago Tribune
October 14, 1951

MARK OF INTEGRITY

The American Civil Liberties Union has undertaken to defend the right of a man to express "opinions we hate" - and is to be commended for it.

A Chicagoan has been fined \$200 for distributing literature calling for a million white people to join an organization formed to combat "amalgamation of the black and white races." The defendant was convicted under an Illinois law banning any publication which "exposes the citizens of any race, color, creed or religion to contempt, derision, or obloquy, or which is productive of breach of the peace."

There is nothing to indicate that circulation of the literature in question provoked any breach of the peace, and the statute which bans it on other grounds would seem to be in clear contravention of the Bill of Rights. At any rate the Civil Liberties Union, while proclaiming its opposition to racism of any sort, has undertaken to represent the accused man on appeal, stating that "if the right of free speech and press means anything at all it means freedom for the expression of opinions we hate as well as those with which we agree."

The Supreme Court has agreed to review the case, and the constitutional issues will be settled there. Meanwhile, the Civil Liberties Union is performing in the best tradition - in the tradition that the freedoms guaranteed by the Constitution cannot be hedged around with ideological considerations but must be equally available to all.

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ENCLOSURE

Washington Star
October 12, 1951

The following letter was written by Ray Barry, Vice-Commander of the American Legion of Kentucky, to the Louisville Times of November 27, 1953, commenting on the action of the Indiana American Legion in pressuring authorities in charge of the War Memorial Building in Indianapolis to deny the building's facilities for an ACLU meeting on November 20, 1953. The Legion alleged that the ACLU's "Communist" record was grounds for denying the use of this publicly-supported building.

In addition to Mr. Barry's letter, an editorial from the Louisville Times of November 27, 1953, commenting on his statement, is also included.

LETTERS TO THE EDITOR

A Legionnaire Rebukes the Indiana Legion

To the Editor: I do not wish to imply that I speak for the American Legion of Kentucky, but merely as a member voicing his resentment at the shameful actions of the American Legion of Indiana relative to the American Civil Liberties Union, which in effect has a bearing on all good Legionnaires everywhere.

Since when is the American Legion of Indiana or any other department the "keeper of the temple of Americanism"? We, in our preamble, pledge to "uphold and defend the Constitution of the United States of America; to maintain law and order; to foster . . . a one hundred per cent Americanism." The action at Indianapolis is certainly inimical to these precepts and the best interests of the American Legion.

What is their conception of the principles of Americanism which distinguishes our form of government from others? These principles consist of the recognition of the truth that the inherent and fundamental rights of men are derived from God and not from governments, dictators, or majorities. These rights are freedom of worship, freedom of speech and press, freedom of assemblage, freedom to work in such occupation as the experience, training and qualifications of man may enable him to secure and enjoy the fruits of his work, which means the protection of property rights and the right to pursue happiness as long as he does not harm others. Upon these basic principles, the whole structure of our form of government was established by our forefathers.

Does their hue of Americanism tally with love of America and loyalty to her institutions?

The American Civil Liberties Union is a national, nonpartisan organization founded in 1920 by the American social reformer, Roger Baldwin, born in 1884 at Wellesley, Mass., and educated at Harvard. He engaged in social work in St. Louis and, during World War I, he organized the National Civil Liberties Bureau in New York and Washington to combat wartime restraints on freedom of speech, press and conscience. After the war, the bureau expanded into the American Civil Liberties Union. After its formation Baldwin directed its activities, which included court cases involving the rights of labor, aliens, Negroes and political minorities, and such issues as censorship and academic and religious freedom.

The organization regards as its platform the Bills of Rights contained in the federal and various state constitutions. In the pursuit of its principles, the organization gives legal aid to members of minority groups, irrespective of their program or position; when it considers their fundamental rights to have been violated.

The organization regards as its platform the Bills of Rights contained in the federal and various state constitutions. In the pursuit of its principles, the organization gives legal aid to members of minority groups, irrespective of their program or position, when it considers their fundamental rights to have been violated.

Never have the principles and integrity of this organization been questioned by any group or committee.

I am a Legionnaire first, last and always. I subscribe to the Americanism program of the American Legion, but I would not violate the basic principles of the Constitution of the United States and the Bill of Rights.

The American Legion was organized as a service organization. Let us rededicate ourselves to the cardinal principles upon which the American Legion was founded, rehabilitation of the veteran, child welfare, and the care of the widows and orphans of the veterans.

RAY BARRY, Vice-Commander
American Legion of Kentucky.

Louisville.

EDITORIAL

From: The Louisville Times
November 27, 1953

A LEGIONNAIRE SPEAKS UP FOR HIMSELF

In his letter published on this page today, RAY BARRY, vice-commander of the American Legion of Kentucky, says he is speaking only for himself, not the Legion, when he protests against "the shameful actions of the American Legion of Indiana." We hope - and believe - that he also is speaking for the majority of individual Legionnaires.

Mr. BARRY's letter condemns the Indiana department of the Legion for trying to prevent formation of an Indiana chapter of the American Civil Liberties Union. The action of the Legion - or rather, that of the state commander and executive committee - already has been widely rebuked. But the rebuke is more pointed and more effective when it is made by one who, like Mr. BARRY, is a member of the group.

Too often an entire organization comes into ill repute because of the excess of a few. Mr. BARRY's letter is proof that not all Legionnaires are guilty of the "incredible un-Americanism" (the phrase of the official publication of the Roman Catholic archdiocese of Indianapolis) of those who tried to deny the A.C.L.U. its American rights of free speech and free assembly.

Of all groups, the American Legion ought to be the most zealous in defending American freedoms and in preserving the Constitution, for it is composed of men who fought for them. Mr. BARRY is aware of that fact. We believe the majority of individual Legionnaires also know it.

THE DAILY OKLAHOMAN

Wednesday, July 18, 1951

100 Percent Wrong

On Saturday, July 14, the Daily Oklahoman ran an editorial entitled "If the Money is Tainted." In one respect that editorial was in error 100 percent.

The mistake lay in saying that it was the Civil Liberties Union that had supplied the bail for the 11 convicted communists. We should have said the Civil Rights Congress. It was the Civil Rights Congress that Judge Ryan spurned when he rejected the bail of those who had refused to disclose the source of the bail money. And it was the Civil Rights Congress that a congressional committee has branded as subversive. The Civil Liberties Union was not involved in the matter in any manner, shape or form.

The Civil Liberties Union is entirely free from communism. It is also free from communists. It specifically bars from its governing bodies and staffs all communists and everybody else who does not believe in the democratic process. No congressional committee has ever pronounced the Civil Liberties Union subversive. No committee could do so.

What was said of the Civil Liberties Union in Saturday's editorial should have been said of the Civil Rights Congress. We erred completely and inexcusably in mentioning the Civil Liberties Union at all, for it has never been accused of any of the things we mentioned editorially. The reference we made in the editorial was an error and entirely unjust.

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ENCLOSURE

DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY
WASHINGTON

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December 15, 1955

Dear Mr. Malin:

In reply to your letter of 16 November 1955, I want to assure you that if any employee of the Navy Department questioned the loyalty of any applicant based on that person's affiliation with the American Civil Liberties Union, such action did not represent the official view of the Navy Department. Further, I have questioned those officials who are responsible for security clearances in the Navy and they inform me that this position is known and understood by all persons responsible for this duty.

I appreciate your calling this situation to my attention.

Sincerely yours,

/s/ THOMAS S. GATES

Thomas S. Gates, Jr.
Acting Secretary of the Navy

Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York 10, New York

61-190-801X

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ENCLOSURE

SAN FRANCISCO EXAMINER

Saturday, April 21, 1956

CIVIL LIBERTIES

The American Civil Liberties Union exists to uphold constitutional rights. Wherever it believes they are being violated or whittled away, it seeks to intervene and test the matter in court. At all times it is concerned with the rights of the individual, not the individual himself.

You may sometimes disagree, as we do, with the ACLU's choice of cases or its interpretations of the Bill of Rights and other constitutional guarantees. But this is an area where disagreement and dissent have gone on throughout the life of our Nation; if agreement were universal, no ACLU would be needed.

The ACLU is worthy of the support of all freedom loving citizens in its current drive for new members and funds to continue its defense of American liberties.

61-190-801X

~~105-80855-3~~

FOUNDED 1920

40th Anniversary Year

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE, NEW YORK 10, N. Y.

JOHN HAYNES HOLMES
Norman Thomas
Directors Emeritus
ERNEST A. SCHELL
Chairman, Board of Directors
E. B. MACNAUGHTON
Chairman, National Committee
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Secretary
ROGER N. BALDWIN
Adviser, International Work
PATRICK MURPHY MALIN
Executive Director

As we, the signers of this letter, look back over the years ... one of us since the very beginnings of the Union, the other during the continuing tense, crowded years since 1950 ... we cannot help but reflect -- as you will when you read the special January number of Civil Liberties -- that the task of safeguarding human rights is today, as always, eternal vigilance.

Your ACLU enters 1960 and its fifth decade of service to America with an immense job to be done.

A major effort will be made in Congress, under the direction of the Union's new Washington office director, Lawrence Speiser, to amend the National Defense Education Act. The broad powers granted the U.S. Commissioner of Education by the law portend a grave threat to the independence of our colleges and universities, which must be free of governmental restraint if they are to carry out their functions. We shall again seek repeal of the loyalty oath provision, which has led Harvard, Yale, and other distinguished institutions to decline funds under the Act.

At the request of the Alabama Christian Movement For Human Rights, the Union is at this moment participating in two cases challenging the constitutionality of bus segregation in Birmingham.

Were these the only problems ahead, and were they to be resolved in this anniversary year, 1960 could truly be considered most fruitful. But as you will see from the Annual Report, Work Ahead in Hope, and from the enclosed Goals for 1960, the ACLU will be fighting on many fronts in the twelve months ahead. And there is the ever-present problem of remaining solvent.

We need your aid. Help us end the fiscal year (on January 31st) in the black. Send whatever you can. Actually, \$7 and multiples of that magic number will keep the Union strong!

The envelope above is more than a bit of folded paper; it can be your messenger of encouragement to all of us in the national organization and in affiliate offices who, like you, passionately cherish America's freedoms.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 9-13-87 BY 20623 Patrick Murphy Malin

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J. Edgar Hoover
Dept. of Justice
Washington 25, D. C.

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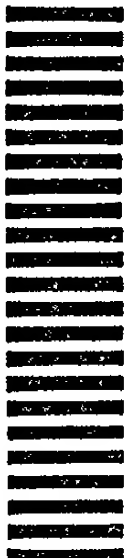
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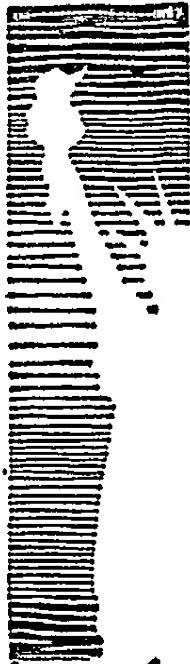
AMERICAN CIVIL LIBERTIES UNION

National Office

170 FIFTH AVENUE

NEW YORK 10, N. Y.





For a generation the American Civil Liberties Union has been in the thick of the battle to uphold the individual right to . . . fundamental freedoms. One need not agree with every stand it has taken over the years to be convinced of its great service as a keeper of the American conscience. Whether attacking censorship or discrimination, whether supporting academic or political liberty, the A.C.L.U. has been a valiant defender of some American fundamentals at the ground level, where it counts.

From a New York Times editorial saluting the Union on its 30th Anniversary, February 22, 1950.

40th Anniversary Year

Here is my \$..... response to the ACLU's **FORTIETH ANNIVERSARY APPEAL** in support of its continued fight for the Bill of Rights on all fronts, national and local, throughout 1960.

(No stamp or signature needed. Simply enclose donation, seal and mail.)

REMEMBER: The Union's integrated affiliates, whose need is also great, will share in your generosity. If you live in one of these STATES or city areas, your contribution will be divided with your local branch just as your membership dues are regularly shared:

ARIZONA
COLORADO
CONNECTICUT
FLORIDA
ILLINOIS

INDIANA
IOWA
KENTUCKY
LOUISIANA
MARYLAND

MASSACHUSETTS
MINNESOTA
OHIO
OREGON
PENNSYLVANIA

RHODE ISLAND
UTAH
WASHINGTON STATE
WISCONSIN
Buffalo

Detroit
Lansing
New York City
Philadelphia
St. Louis

THE 1960 PROGRAM

BIRTH CONTROL. The Union will support court tests of legislation prohibiting the use and sale of birth control devices as an infringement of the due process guarantees of the 14th Amendment, and of the reserved private rights of the 9th and 10th Amendments.

EQUALITY BEFORE THE LAW

RIGHT TO VOTE. To give full meaning to one of democracy's most precious rights — the right to vote — the Union will strongly urge Congress to adopt the Civil Rights Commission's recommendation that temporary federal registrars be appointed in areas where persons have been denied the ballot.

DISCRIMINATION IN HOUSING. The Union will urge implementation of the Civil Rights Commission recommendation for a presidential committee to combat discrimination in government-aided housing; support for the equality principle will also focus on state and local laws prohibiting bias in private housing.

DESEGREGATION IN SCHOOLS AND PUBLIC ACCOMMODATIONS. In key cases our support will be given to the NAACP and local groups directly involved with school desegregation. The Union will take up a legal challenge of Birmingham's segregation of bus transit.

IMMIGRATION. Efforts will be made to remove from present laws the racial and religious discriminatory basis for admission to the U. S., and especially to advance due process rights for aliens.

AMERICAN INDIANS. The growing concern to accord Indians the full protection of the Bill of Rights will be demonstrated by the Union in important court cases, and in representation to federal officials. The Indian Rights Committee will continue to work with other organizations to extend civil liberties to the "first Americans."

INTERNATIONAL CIVIL LIBERTIES

SELF-RULE. Efforts will continue to promote increased self-government and civil rights in the Virgin Islands, Guam, Samoa and the Pacific Trust Territory, and also in Okinawa, the last foreign area under U. S. military control.

U.N. AND HUMAN RIGHTS. The Union will continue to press for implementation of the Universal Declaration of Human Rights, and to seek Senate support for U. S. adherence to international treaties protecting human rights.

THE FORTY YEARS

In 1924, the Union was instrumental in getting the mayor of Syracuse to veto an ordinance banning public discussion of birth control; in 1931, the ACLU helped win admission to the U. S. of "Contraception", a book by the famed birth control advocate, Dr. Marie Stopes.

From its earliest years the Union has fought for the Negro citizen's right to vote; in 1931 it published "Black Justice", a pamphlet explaining, among other legal restrictions, how the laws of ten states then denied Negro citizens access to the ballot.

In 1947 the Union published Charles Abrams' widely distributed pamphlet, "Race Bias in Housing"; the following year the United States Supreme Court knocked out legal support for racially restrictive covenants in a series of cases supported by the ACLU.

From 1942 to 1945, the Union's special Committee on Race Discrimination in the War Effort, headed by Pearl Buck, campaigned in support of the Fair Employment Practices Commission, considering it the key to future progress in ending segregation in other areas.

The Union's long campaign for the repeal of the Oriental Exclusion Act of 1924, under which no Asian could become a citizen of the United States, was finally won in 1952. During the 1920's and 1930's the ACLU backed cases that won for alien pacifists the right of U. S. citizenship.

The Union's Indian Civil Rights Committee, formed in 1930, played a major part in the passage of the Indian Reorganization Act of 1934; in 1948, the ACLU actively supported and won court cases to entitle Indians to the right to vote in New Mexico and Arizona, the last two states to deny them the ballot.

In 1936 Congress passed a bill backed by the Union, providing for permanent civil government for the Virgin Islands, with universal suffrage and a Bill of Rights; in 1948 Puerto Rico achieved a goal long sought by the ACLU — to elect its own governor and to rule itself.

On invitation of occupation authorities in Japan and Germany in the 1950's, Roger Baldwin, International Work Advisor, aided in establishing in those countries citizens' agencies to protect democratic liberties.

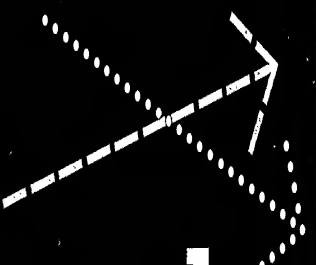
"I do not agree with a word you say," said Voltaire, "but will defend to the death your right to say it." It would be hard to find a more searching test of the genuineness of democratic sentiments than is implicit in this famous dictum. And it would be equally hard to find an organization that subjects itself to this test more often and more willingly than does the American Civil Liberties Union . . ."

Editorial from The Christian Science Monitor

The American Civil Liberties Union has now completed four decades of subjecting itself to this searching test, defending Americans' constitutional freedoms wherever violated. It begins its fifth decade stronger than ever, but in the knowledge that eternal vigilance is the price of liberty. Its members' contributions support the national organization and 26 affiliates. The need for increased support continues, to insure increased protection for the Bill of Rights.

AMERICAN CIVIL LIBERTIES UNION
170 FIFTH AVENUE, NEW YORK 10, N. Y.

40th ANNIVERSARY



goals
for
1960



with highlights
of the past
40 years



goals for 1960

with highlights of ACLU achievements 1920-1959

As the nation's only permanent non-partisan organization devoted exclusively to the defense of the Bill of Rights for everyone, the American Civil Liberties Union has since its foundation in 1920 been ready to act wherever violations of our constitutional freedoms are threatened. In beginning its fifth decade as a "watchdog", the Union foresees the 1960 major civil liberties objectives as listed below on the left. At national, affiliate and chapter levels, the Union will meet these challenges in courts, in legislatures, in administrative hearings, and in appeals to public opinion.

The ACLU's 40th anniversary year provides an opportunity to review its history. Below, opposite the 1960 Program, are examples from earlier years of activity in the same area. The ACLU took direct action on most of these issues; its policies on all have long been a matter of public record.

THE 1960 PROGRAM

THE FORTY YEARS

THE 1960 PROGRAM

THE FORTY YEARS

FREE SPEECH AND ASSOCIATION

ACADEMIC FREEDOM. A new effort will be made in Congress to remove the loyalty-oath provision of the National Defense Education Act, which has caused leading universities to refuse to accept funds under the Act.

HOUSE UN-AMERICAN ACTIVITIES COMMITTEE. While the Supreme Court has upheld the constitutionality of the Committee, the Union will continue to oppose its investigations as a threat to freedom of speech and association.

LABOR. The Union, while approving the principle of legislation to assure internal union democracy will closely watch the operation of the new labor reform law to make sure that provisions designed to improve such democracy do not abuse labor's constitutional rights.

SMITH ACT. A test of the constitutionality of the membership section of the Act is before the Supreme Court for the third time in the *Scales* case, the ACLU arguing that making mere membership in an organization a crime is a clear-cut invasion of the right of association.

GOVERNMENT SUPPRESSION OF NEWS. Efforts in the Congress and by the mass media to eliminate present barriers to the flow of information by government agencies will be supported.

CHURCH-STATE. Government aid to religion, barred by the First Amendment, will be opposed in court cases challenging the use of public funds for parochial schools' text books and bus transportation; opposition will continue to religious exercises in public schools.

CENSORSHIP. The Postmaster General's attempt to broaden his censorship powers will be vigorously fought in Congress and in the forum of public opinion. Opposition will continue to censorship of books, magazines, radio, TV and motion pictures by private pressure groups.

In 1923 the Union helped repeal New York's Lusk Laws abridging teachers' freedom; in the ACLU's 1925 *Scopes Case*, Clarence Darrow defended the right of scientists to teach the theory of evolution free of government restraint.

In 1938 the Union fought Congressman Dies' resolution establishing the Committee; throughout the 40's and 50's, the Union challenged the HUAC's legality in a number of court cases.

During the 1920's and 1930's the ACLU played a major part in winning labor's right to hold meetings, to organize, to picket, and to bargain collectively; in 1940 it began its campaign for democracy in trade unions, which led in 1958 to its widely-publicized "labor bill of rights".

The ACLU fought the Smith Act before its enactment in 1940; in 1942 when, with the approval of the Communists, it was used to prosecute Trotskyites; in 1943 when it was used against alleged pro-Nazis, and in the 1950's when it was applied to Communist leaders.

During World War II the ACLU criticized the wartime censorship of news on racial tensions; in 1955 it mounted a campaign against the Administration's suppression of news, including a special study of government censorship.

In 1938 the Union opposed amending New York State's Constitution to permit the use of public funds for parochial school buses; ten years later it helped win the Supreme Court's *McColum* decision that public school buildings cannot be used for "released time" religious instruction.

In 1933, the Union aided in the case which led to Federal Judge John M. Woolsey's historic decision admitting James Joyce's "Ulysses" into the U. S.; in 1962 it participated in winning the Supreme Court's *Miracle* decision placing movies within the protection of the First Amendment.

TV-RADIO PROGRAMMING. The twin need, balanced programming and freedom from censorship, will be emphasized in urging the FCC to exercise its authority to evaluate stations' programs and guarantee diversity. The need to re-allocate the spectrum to create more stations and to license networks will be stressed.

PASSPORTS. Legislative curbs on the right to travel will be combatted, and further court review of State Department restrictions denying freedom of movement will be sought.

LEGAL COUNSEL FOR NEGROES IN THE SOUTH. The problem of obtaining counsel for Negro defendants in the South because of fear of reprisals will be dealt with by the ACLU's seeking to secure such counsel. In certain key cases the Union will directly handle litigation.

POLICE PRACTICES. An effort to increase police respect for citizens' constitutional rights will focus on prompt arraignment of defendants, illegal search and seizure, improperly obtained confessions and harassment based on individuals' racial desegregation views.

FEDERAL SECURITY PROGRAM. The position of the Supreme Court in the *Greene* and *Vitarelli* cases, backing the right of confrontation and cross examination in the government industrial and employee security programs, will be defended, particularly if Congress considers bills to nullify the effect of these decisions.

ATTACKS ON THE SUPREME COURT. Any attempt to revive anti-Supreme Court legislation which threatens the independence of the judiciary will be vigorously fought.

WIRETAPPING. In both U. S. and state legislatures efforts will continue to outlaw the use of wiretapping and other "electronic eavesdropping" devices that invade individual privacy.

In the 1920's the ACLU urged legislation to insure that persons with minority political views would have radio time; in 1943 it defended the Federal Communications Commission against an unfair House Committee investigation under the chairmanship of Rep. Eugene A. Cox.

DUE PROCESS OF LAW

In the 1920's the ACLU campaigned for the repeal of the passport control law adopted during World War I; in the 1950's, the Union helped in key cases to curb the State Department's arbitrary denial of passports.

A widely publicized report by an ACLU investigator present at their original trial was instrumental in persuading the Supreme Court in 1932 to reverse the conviction of the nine Scottsboro Negro youths for rape, on the ground that they had not received adequate counsel.

The ACLU's continuing opposition to police violence used in combatting pickets and radicals is acknowledged to have played a major part in all but eliminating such overt police brutality from the American scene.

In 1941 the Union helped kill a measure enabling the F.B.I. to investigate all government employees for "subversive" associations; in 1947 it denounced the issuance of the Attorney General's List of Subversive Organizations without prior hearing for the listed groups.

During the late 1950's the Union not only denounced irresponsible attacks on the Supreme Court but led the fight against the Jenner-Butler bills and similar measures which would have denied the court the power to review in vital civil liberties areas.

In 1954, the ACLU led the campaign for national anti-wiretapping legislation, asking as a minimum the enactment of important safeguards to reduce civil liberties abuses.

February 9, 1960

Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York 10, New York

Dear Mr. Malin:

Your letter to the editor of the "New York Post" concerning the security of FBI files has been brought to my attention, and I did want you to know how much I appreciate your firm position of opposing any disclosure of information contained in the records of this Bureau.

To release information in FBI files regarding our investigation in the Mack Charles Parker case could result in irreparable harm to innocent persons and would, in fact, serve no purpose other than to illustrate the complexity of this case. No fair-minded American desires to see another unjustly accused of a crime without the opportunity to prove his innocence. I am grateful for your opposition to efforts to violate the confidential nature of our files.

Sincerely yours,

J. Edgar Hoover

MAILED 27

FEB 10 1960

COMM-FBI

REC-41

FEB 12 1960

NOTE: Bufiles reflect cordial relations with Malin. Address per last outgoing.

WLD:cfh/bis

(30 FEB 11 1960)

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FEB 10 1960

FEB 18 1960

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Dear Editor

Civil Liberties and Mississippi

Your Jan. 29 editorial disagreeing with our stand that the FBI report on the Mack Charles Parker lynch case should not be disclosed states that our position "is based on the whimsical premise that Mississippi operates under our 'judicial process'."

Our position, which supported the traditional constitutional guarantee that criminal accusations against an individual should be answered in court where confrontation, and cross-examination is provided, is no indorsement of the legal treatment of Negroes in Mississippi. Our letter to the Attorney General expressed bitter frustration about the failure of two grand juries to return indictments in this terrible crime. However, we believe that once exceptions are made for the release of FBI material, the way is opened for public disclosure in other situations; in loyalty security proceedings, for example, which would condemn persons without a fair opportunity to defend themselves. The time to prevent violation of a vital constitutional principle is when the chipping-away process begins.

There is an alternative procedure for bringing to public attention the way in which Negro rights are trampled on, and we agree that such denial of human rights needs to be continually exposed. This is the release of the FBI report without mentioning the names of the individuals concerned, a method which you discussed in the editorial. We proposed this technique when there was demand for the release of the FBI report on the Little Rock school desegregation conflict. But such a "white paper" probably is not possible in the Parker case: the names of individuals form an essential part of the report, particularly the names of local law

enforcement authorities, who, according to some newspaper stories, were involved in the case.

We also want to make clear that our letter to the Attorney General urged and supported any further legitimate action that the Dept. of Justice can take in the Parker case, and pledged to continue our efforts, along with the NAACP and similar groups, to win civil rights legislation in the Congress that would assure equal treatment for all citizens.

PATRICK MURPHY MALIN,
Executive Director,
American Civil Liberties Union.

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The Washington Post and _____
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The Evening Star _____
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New York Journal-American _____
New York Mirror _____
New York Daily News _____
New York Post _____
The New York Times _____
The Worker _____
The New Leader _____
The Wall Street Journal _____
Date _____

FEB 5 1960

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let to
Malin
2/9/60
WNP

Cue for a Speech

Responding to an editorial published recently in The Post, the director of the American Civil Liberties Union reaffirms his organization's opposition to release of the FBI report on the Mack Parker lynching case. He argues, in today's letters column, that to issue the document even without the use of names, as we had urged, would be impractical because a key issue is the complicity of local law enforcement officials in the lynching.

The objection is a plausible one, but it does not resolve the matter. The condition of justice in Mississippi remains a national scandal; no one knows that better than FBI Director J. Edgar Hoover. The FBI chief has never been reluctant to recite his views on general problems such as juvenile delinquency. Surely it would be appropriate for him to tell the country about lawlessness in Mississippi.

Is there no committee of Congress eager to solicit his remarks on this subject?

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 Gandy _____

M.A. Jones
W. J. Jones

The Washington Post and _____
 Times Herald _____
 The Washington Daily News _____
 The Evening Star _____
 New York Herald Tribune _____
 New York Journal-American _____
 New York Mirror _____
 New York Daily News _____
 New York Post 47 _____
 The New York Times _____
 The Worker _____
 The New Leader _____
 The Wall Street Journal _____
 Date _____

FEB 5 1960

8 and

ENCLOSURE

61-190-803

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February 18, 1960

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
U. S. Department of Justice
Washington 25, D. C.

Dear Mr. Hoover:

As Mr. Malin is away from the office for several days, I am replying to your February 9 letter concerning his recent letter in the New York Post regarding the security of FBI files. I will bring your letter to Mr. Malin's attention as soon as he returns to the office.

We are pleased to note your comment concerning our statement in the Parker case. Our letter was in keeping with our long standing position that FBI files should not be revealed except in the appropriate forum.

Sincerely yours,

AMERICAN CIVIL LIBERTIES
UNION, N.Y. N.Y.

EX 109

REC-18

61-190-804
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5 FEB 19 1960

EX-109

FEB 29 1960

EX-140

REC-57

61-190-805

~~105-60850-4~~

February 29, 1960

Mr. [redacted]
New Albany High School
New Albany, Mississippi

b6
b7C

Dear Mr. [redacted]

Your letters dated February 17, 1960, have been received, one of which was forwarded by Mr. [redacted] and two of your teachers. The other letter was received directly from you with enclosures. I appreciate the interest which prompted you to write.

While I would like to be of service to you, the function of the FBI as a fact-gathering agency does not extend to furnishing evaluations or comments concerning the character or integrity of any individual, organization or publication. Information in our files is maintained as confidential and available for official use in accordance with a regulation of the Department of Justice. I am unable, therefore, to furnish the information you desire, and I am sure you will not infer from my inability to be of assistance that we do or do not have in our files the information you have requested.

As a matter of policy, I can in no way sponsor or guide you regarding the establishment of an organization such as you propose; however, I am glad to learn of your awareness of the problems that confront our Nation in this regard. I am sending you under separate cover some literature dealing with communism which may be of interest to you and your fellow students. I am also returning the material you forwarded as it may be of value to you.

Sincerely yours,

John Edgar Hoover
Director

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Enclosures (3)

1 - Mr. Simpson - Enclosures (3) Room 1513

1 - Mr. Jones USC Material Next page

BWE:jah

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MAR 28 1960

NOTE NEXT PAGE

USC Material

5 copies each of

Communist Illusion and Democratic Reality

Director's Speech of 6-16-59

How To Beat Communism

God and Country or Communism

Communist "New Look"

Director's Statement to Senate Subcommittee concerning the 17th National Convention, Communist Party.

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NOTE: Correspondent is not identifiable in Bufiles. Letter from two teachers and principal of correspondent is not being acknowledged as it is merely an introductory letter introducing [redacted] and in view of the fact that reference was made to this letter in the acknowledgement to [redacted] Enclosures were February, 1958, issue of "Bulletin of the Atomic Scientists," Literature in envelope from same, and literature in envelope from American Civil Liberties Union Inc., 170 Fifth Avenue, New York 10, New York.

February 17, 1960

Mr. J. Edgar Hoover; Director
Federal Bureau of Investigation
Washington 25, D. C.

Dear Sir:

Not long ago, I received material which I thought was published by a communist front organization. The letter invited me to join an organization of American Civil Liberties Union Incorporated. I became suspicious when it listed 21 questions on civil liberties, some of which supported communist causes. For instance, it asked the following question;

Public school and college teachers should be required to sign a special non-communist loyalty oath. Yes or No and etc.

If you answered No to this question, you received five points toward your total score. If you received a score of 75, then "you agree substantially with the American Civil Liberties Union."

After an investigation on my part, I found a booklet published by the Government Printing Office entitled "The Communist Party of the United States of America." It stated the following about communist front organizations:

To defend the cases of Communist lawbreakers, fronts have been devised making special appeals in behalf of civil liberties and reaching farther out beyond the confines of the Communist Party itself. Among these organizations are the Civil Rights Congress and Emergency Civil Liberties Committee. When the Communist Party itself is under fire these fronts offer a bulwark of protection.

I am enclosing the letter I received and its 21 questions on Civil Liberties of which, in my opinion, support the Communist lawbreakers.

The booklet goes on to state the following:

Since Communist fronts must start with a working nucleus of party members or reliable sympathizers, and since the party depends for its continued control of these organizations upon this nucleus, the presence of certain names frequently found as sponsors and officials is often a good clue. We present here with a list of the most active and typical sponsors of Communist fronts in the past.

FEB 23 1960

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EX-140

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FEB 23 1960

ENCLOSURE

and attached of all letters
ack. 2-25-60
Lawrence
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CRIME REC

The list showed the name of Robert S. Lynd (teacher, writer, New York), which also appears on the National Committee of the so called American Civil Liberties Union, Inc.

I suspect that I have traced the source of where they obtained my name and address. Recently I subscribed to the "Bulletin of the Atomic Scientists", which I thought was merely what the name implies. While this magazine could not be called openly subversive, most of its articles do support the Communist cause. The government pamphlet states the following about this type of organization:

Sometimes fronts are used to appeal to special occupational groups still with the same broad general purposes in mind, including, by way of example, the National Lawyers Guild, the National Council of Sciences, Etc.

The name of Linus Pauling appeared on the board of sponsors of this organization. The name of Linus Pauling (scientist) also appears on the government list of typical sponsors of communist fronts.

I am enclosing a copy of the Bulletin of Atomic Scientist and a recent letter received from the front. I suggest you read the article entitled "Time to Stop Baiting Scientists" or another article in this copy.

Another reason I think there is a connection between the American Civil Liberties Union and Bulletin of Atomic Scientist is because of the spelling of my name. Almost without exception my name is misspelled, [redacted] instead of [redacted]. The exceptions came from the "Bulletin of Atomic Scientists" and the "American Civil Liberties Union."

I wish to know if I am right in my assumption. If I am, I wish to know what else I can do.

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b7c

Yours Truly,

[redacted]

b6
b7C

CONTENTS-MERCHANDISE

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IF NECESSARY.

FROM

New Albany, Mississippi

RETURN POSTAGE GUARANTEED

TO

Mr. J. Edgar Hoover; Director

Federal Bureau of Investigation

Washington 25, D. C.

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AMERICAN CIVIL LIBERTIES UNION, 170 FIFTH AVENUE, NEW YORK 10, N.Y.

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WEEKLY BULLETIN #2032

February 22, 1960

PROPOSED FEDERAL VOTING RIGHTS BILL CONTAINS ADEQUATE DUE PROCESS SAFEGUARDS, ACLU SAYS

As the long-awaited Congressional debate on civil rights began last week, the American Civil Liberties Union claimed that proposed federal legislation designed to safeguard voting rights contains sufficient assurances of fair hearings for state registrars charged with refusing to qualify eligible citizens to vote.

Several bills now before the Senate Rules Committee embrace the suggestion of the federal Civil Rights Commission that temporary federal registrars be appointed by the President to register persons when, after investigation, it is found that the state registration officials have denied such registration on grounds of race, color, religion or national origin. These bills, which ACLU supports in principle, fail to provide that accused registrars be notified of charges leveled against them and be allowed to confront complaining witnesses. If the measures were passed, the Civil Rights Commission would establish rules for filing and disclosing complaints by persons whose rights of franchise allegedly were denied on the discriminatory grounds.

If the legislation provided for an adjudicatory proceeding, notification and confrontation should be required to avoid doubts concerning its constitutionality, the ACLU noted in a statement filed with the Senate Rules Committee. But such due process guarantees are not necessarily included in regulations for investigative proceedings, it added.

Referring to the obstacles that some Southern voting officials have placed in the path of Negro citizens, the ACLU said, "It is true that the filing of the original complaints would probably not be disclosed in order to protect initially the anonymity of the complainant so that he might not be subjected to political, economic, or physical reprisal. However, once an investigation had been agreed upon, it would seem to follow that any registrars against whom complaints had been filed should be advised as to the nature of the charges against them and, upon being called as witnesses themselves, should have an opportunity to hear on the record the complaints that would be considered against them in the final determination of discrimination or not."

The Civil Rights Commission adopted this procedure in two cases now being challenged in the Supreme Court concerning voting denials in Louisiana and Georgia, the ACLU pointed out. "There is a significant distinction between investigative and adjudicatory proceedings. What is here proposed would in many ways parallel Congressional fact-finding investigations; the evidence presented may lead to remedial action but, unlike an adjudicatory proceeding, it will not lead to a final determination of the validity of charges nor to the imposition of a penalty upon the person charged," according to the Union statement. "The constitutional protections of procedural due process have never been held to extend to an assurance of the full right of confrontation in hearings which are merely investigative. This is not to say that there might not sometimes be an issue of fairness which in a particular case would require confrontation, but only to say that the Constitution requires no general rule to that effect and we believe that to require it here would unnecessarily thwart a proper legislative purpose. In this case, in particular, the prospect that the Commission would provide for notice of charges and confrontation seems ample protection to those against whom complaints might be filed."

Declaring that "1960 is the time for a long-deferred recognition and implementation of the right of all citizens of the United States freely to vote," the ACLU statement also endorsed in principle a recent proposal by Attorney General Rogers providing for appointment of federal referees by District Courts to supervise both state and local registrations and elections where, after judicial determination, such referees are deemed necessary. The civil liberties noted two weak points in the proposal that should be strengthened. It urged that the appointment of a voting referee be made mandatory rather than discretionary "once there is a judicial finding

A REGULAR WEEKLY SERVICE. FURTHER INFORMATION FURNISHED ON REQUEST.

that a person is being deprived under color of law or by state action of his rights on account of race or color." In addition, the ACLU urged that "provision be made also for expediting any appeal of such determination so that administrative and judicial processes provided will not permit the right to vote to be mooted by delay."

Senator Thomas C. Hennings, Jr. of Missouri has proposed a bill incorporating the main features of both the Civil Rights Commission's and the Rogers' proposals.

CHURCH-STATE SEPARATION MAINTAINED AS FLORIDA RELIGIOUS COLLEGE PAYS FOR PUBLIC LAND

A controversy over donation of public lands to a denominational school was amicably settled recently when the newly-chartered Florida Presbyterian College agreed to pay \$500,000 for land initially given by the city as a free building site for the school. Complaints that the gift violated Florida constitutional provisions for the separation of church and state prompted Dr. William H. Kadel, president of the college, to approve payment.

"A question concerning the constitutionality of this grant has been raised by national organizations, which maintain the gift violates the doctrine of the separation of church and state," Dr. Kadel noted. "Because of our sincere desire to answer this question for all time and to proceed with our college establishment, the board of trustees is presenting St. Petersburg a note for \$500,000 for this property."

A visit by Glenn L. Archer, executive secretary of Protestants and Other Americans for Separation of Church and State (POAU), last fall resulted in a series of conferences with attorneys and officials of the college and representatives of interested organizations. As a result of these meetings, the college agreed to payment for the land in order to remove any church-state separation problem. On the suggestion of Archer, Dr. Kadel and city officials asked four leading realtors of St. Petersburg to appraise the value of the land, and the \$500,000 figure was set. "We feel the college has acted in a satisfactory manner," the POAU noted, "and that the payment for the public land should be accepted as adequate." Representatives of the American Civil Liberties Union, the American Jewish Congress, and the American Jewish Committee supported the college's action.

"The high regard in which Florida Presbyterian College was already held by this city," a St. Petersburg Times editorial asserted, "has been greatly strengthened by action of the college authorities to remove the cloud of doubt as to the city's right to donate the campus site. By deciding to pay for the land in order to avoid any possible illegality under the strict provisions for separation of church and state in the Florida Constitution, the college has shown good sense and acted fairly." Several Florida cities had offered the school free land in a bid to settle the Presbyterian College in their communities. Only St. Petersburg had proffered public lands, however.

OREGON JUDGE BACKS PRISONERS' RIGHT IN PREPARING COURT APPEALS

In an opinion which breaks new ground, a federal District Court judge in Oregon has asserted a large measure of civil rights for state penitentiary inmates in their efforts to prepare legal documents in their own behalf.

Judge Gus Solomon ruled that officials may not prohibit prisoners from studying law in their cells, unless more adequate library facilities are provided; from buying law books; or from sending mail from the penitentiary; and must not confiscate legal documents found in cells or prevent prisoners in isolation from consulting attorneys or doing legal work. There are few legal precedents spelling out prisoners' rights on such matters. The Oregon attorney general promised to carry the case to the U. S. Court of Appeals.

In petitions testing prison regulations, seven inmates alleged that excessive restrictions dealing with law study and the preparation of legal documents denied them full access to the courts where they might defend themselves against criminal charges or illegal confinement. Governing officials of the state prison answered that the restrictions were reasonable and necessary and did not "substantially curtail plaintiffs' opportunities to be heard in the courts."

In the main, Judge Solomon disagreed. Noting the limited number of hours during which the prison library is open weekly and the limited number of persons who may use it simultaneously, he ruled: "Plaintiffs need more time than they are presently afforded to prepare their legal matters adequately." Prison officials claimed that their burden of censoring incoming mail would be increased and that space problems would result if inmates were permitted to buy law books. But, Judge Solomon asserted: "If law books are necessary to due process, these considerations are immaterial."

He cautioned that the officials' right to inspect communications between prisoners and their attorneys or the courts "should not be used unnecessarily to delay communications...since such delay could amount to an effective denial of a

prisoner's right to access to the courts." Prison authorities confiscated legal documents found on prisoners outside the library on the ground that prisoners had no right to possess personal property. To this, Judge Solomon answered: "The right at issue was not a property right but the right to be heard in the courts. Prison officials may not enforce rules which suppress papers directed to the courts," he said.

While acknowledging that isolation as punishment might be impaired by his decision, the jurist held that even prisoners so confined must have the basic right of access to the courts, including permission to communicate with counsel and access to legal materials.

In his opinion, Judge Solomon supported several of the arguments set down in a friend-of-the-court brief filed by the American Civil Liberties Union of Oregon. He commented in his decision that the brief displayed the "usual high quality" of the Union's legal documents.

TEST OF NEW JERSEY BIBLE READING LAW PROMISED BY ACLU

Citing a recent federal court decision in Pennsylvania which held that state's Bible reading law unconstitutional, the American Civil Liberties Union said recently that it would support "any legal challenge of the constitutionality" of the New Jersey law which requires Bible reading in the public schools. The civil liberties group also promised full support to the Freehold, New Jersey Board of Education if the school board abandoned the practice.

The ACLU pledge was contained in a letter to the Freehold Board of Education opposing the recitation of the Lord's Prayer in the public schools. A complaint had been made to the ACLU by the parents of a young child that the prayer was being recited daily in their daughter's second grade class. The ACLU letter was signed by Rowland Watts, legal director.

Declaring that recitation of the Lord's Prayer is not required by New Jersey law, the ACLU said it "clearly constitutes a devotional and religious activity, and, as such, comes squarely within the prohibition of the First Amendment."

The problem is not solved, the ACLU said, by making the recitation voluntary or by permitting the children who object to leave the room during the religious ceremony. "Not only is this unfair discrimination against them, but we believe it asks too much of school children to expect them to act on such information even if they were informed of the choice." Non-conformity is not an outstanding characteristic of children, the ACLU said.

In urging the discontinuance of the daily prayer recitation, the ACLU said it was not acting "lightly, but only upon the most serious constitutional considerations. We believe that the principles which underly the First Amendment can be most fully realized only if government scrupulously declines to intrude itself in any way in matters of religion."

On the issue of Bible reading required by state law, the ACLU letter cited the recent special three-judge federal court decision in the Schempp case which held that Pennsylvania's Bible reading law violates the First Amendment's prohibition against government encouragement of religion. The civil liberties group cited this section of the court opinion, "the daily reading of the Bible, buttressed with the authority of their teachers, can hardly do less than inculcate or promote inculcation of various religious doctrines in childish minds. Thus the practice required by the statutes amounts to religious instruction, or a promotion of religious education....(A) state-supported practice of daily reading of this essentially religious text in the public schools is, we believe, within the proscription of the First Amendment....We conclude also that the reading of the Bible required by the Pennsylvania statute prohibits the free exercise of religion."

CIVIL LIBERTIES BRIEFS

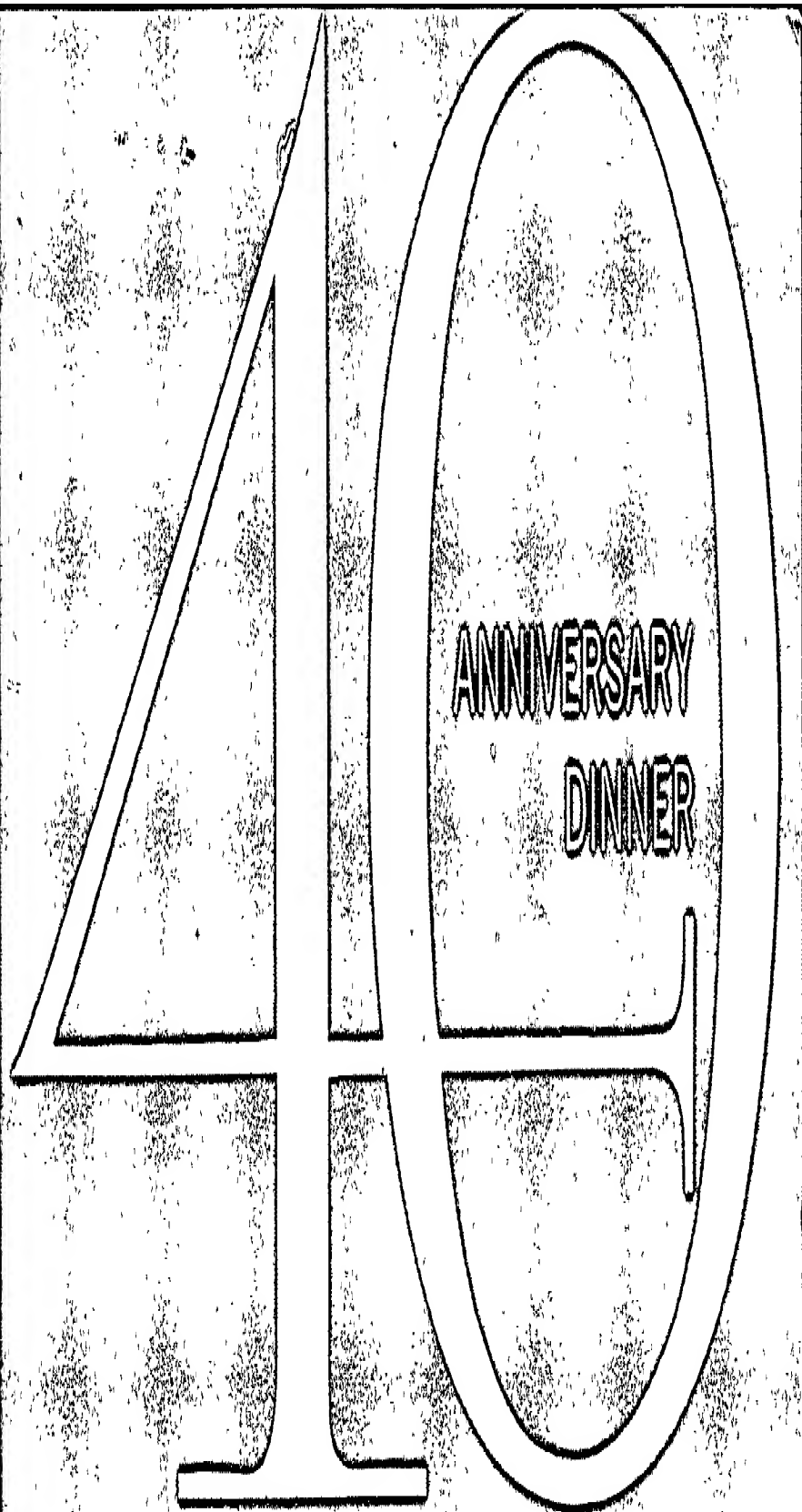
THE HARRISBURG (Pa.) chapter of the Pennsylvania ACLU has succeeded in getting the public schools there to abandon: (1) participating in the "Keep Christ in Christmas" campaign; (2) practicing church choral singing in classrooms; and (3) singing hymns in classrooms of a "pronounced sectarian nature"...THE MARYLAND Branch of ACLU and the Johns Hopkins University YMCA held the second annual Civil Liberties Round Table, a discussion meeting attended by more than a dozen organizations. The Round Table heard Jerome Robinson, speaker of the House of Delegates, say that the state General Assembly's lack of interest in civil liberties is a reflection of the attitude of the general public...THE PITTSBURGH Branch, ACLU, has told the city police department that it doesn't take orders from the Russian secret police. The ACLU unit said that during a recent visit by Soviet Premier Khrushchev the police interfered with the exercise of free speech by taking signs from non-violent pickets. In Pittsburgh and Washington, the ACLU units supported the Committee for Freedom For All Peoples which took a similar stand on peaceful picketing.

THE AMERICAN CIVIL LIBERTIES UNION

and the

NEW YORK CIVIL LIBERTIES UNION

invite you and your friends to the



CIVIL LIBERTIES UNION

And presentation of the
FLORINA LASKER CIVIL LIBERTIES AWARD

to
HERBERT L. BLOCK
(Herblock)

Editorial Cartoonist, *The Washington Post and Times Herald*; Author

Tuesday evening, March 8, 1960

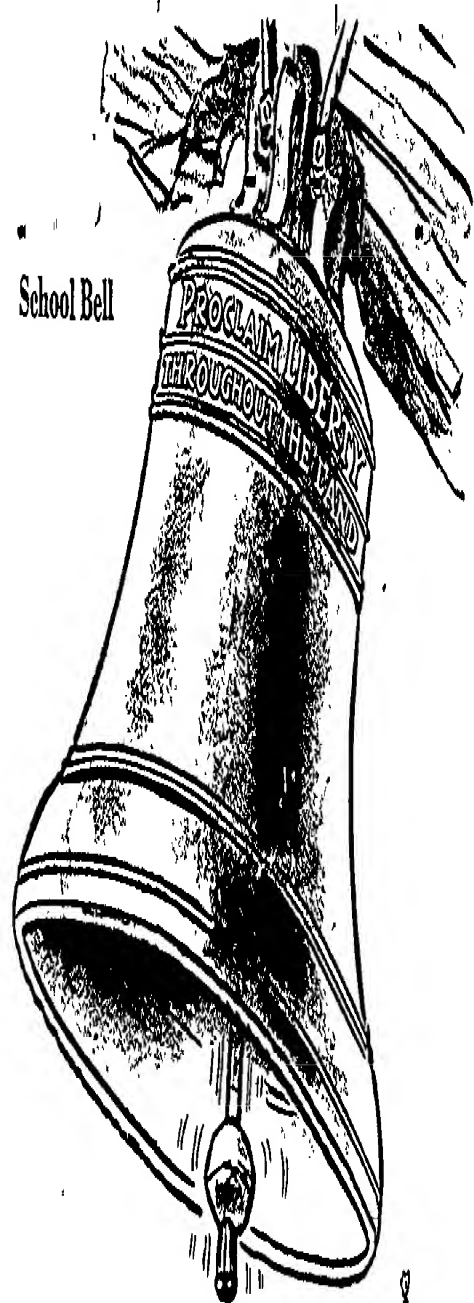
Hotel Commodore

42nd Street at Lexington Avenue, New York City

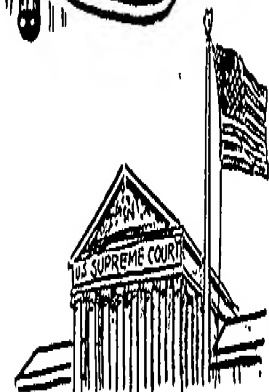
6:30 o'clock

\$12.50 per Person

RSVP on Enclosed Card



HERBLOCK
COPY THE WASHINGTON POST CO.



Published following the U. S. Supreme Court's historic public school desegregation decision on May 17, 1954, this is one of Herblock's many forceful civil liberties cartoons.

Program

THE HONORABLE THOMAS C. HENNINGS, JR.

Chairman, U. S. Senate Subcommittee on Constitutional Rights

THE CHALLENGE OF THE '60s: Progress for Individual Rights

ROGER N. BALDWIN

Founder of the ACLU — Executive Director, 1920-1950

THE ROLE OF THE U. S. IN PROMOTING UNIVERSAL LIBERTIES

Presiding:

Charles A. Siepmann

NYCLU Board Chairman

Ernest Angell

ACLU Board Chairman

PRESENTATION OF THE 1960

FLORINA LASKER CIVIL LIBERTIES AWARD

to

HERBERT L. BLOCK

(Herblock)

A SPECIAL DRAMATIC PRESENTATION

Written for the Fortieth Anniversary Dinner by

ELMER RICE

Playwright, Author,

Member of the ACLU Board of Directors

THE FLORINA LASKER CIVIL LIBERTIES AWARD

This Award of \$1,000, which is administered by the New York Civil Liberties Union, was made possible by the trustees of the Florina Lasker Estate from funds set up under terms of her will for social, civic, scientific and educational purposes. It is given to the "individual, organization or group who, by word or action, has displayed consistent and outstanding courage and integrity in the defense of civil liberties, whether in the performance of duty or above and beyond the requirements of duty, and by so doing has made a significant and constructive contribution to civil liberties." Recipients are selected by a national committee on the basis of nominations made by numerous individuals and organizations throughout the country.

Miss Lasker was the first Chairman of the New York Civil Liberties Committee (predecessor of the NYCLU) from 1932 until her death in 1949, and also served as a member of the Board of Directors of the American Civil Liberties Union during that period. She was a selfless and devoted fighter for civil liberties and for the many other causes in which she was interested.

Previous winners of the Award have been Roger N. Baldwin, founder of the ACLU and its Executive Director from 1920 to 1950, recipient of the first Award in 1957; Irving Dilliard, editorial writer of the "St. Louis Post-Dispatch," who received the 1958 Award; and five Negro high school students in Little Rock, Arkansas, recipients of last year's Award.

1960 Selection Committee Florina Lasker Civil Liberties Award

CHARLES A. SIEPMANN, Chairman
Chairman, Board of Directors, NYCLU

ERNEST ANGELL
Chairman, Board of Directors, ACLU

ROBERT K. CARR
President, Oberlin College

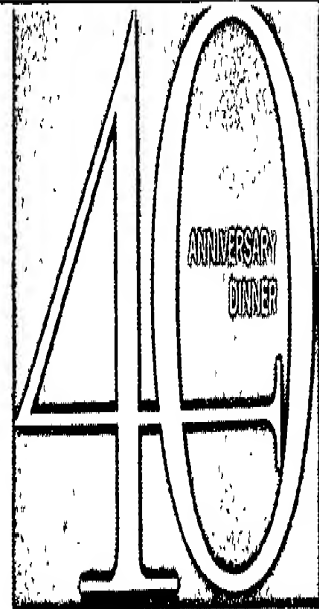
THE RT. REV. ANGUS DUN
Protestant Episcopal Bishop of Washington, D.C.

OSMOND K. FRAENKEL
General Counsel, ACLU; Member, Board
of Directors, NYCLU

JOHN PAUL JONES
Member, Board of Directors, ACLU;
former Chairman, NYCLU

LOUIS M. LYONS
Curator, Nieman Foundation for Journalism,
Harvard University

CHANNING H. TOBIAS
Chairman-Emeritus, National Association for
the Advancement of Colored People



The ACLU: 1920 - 1960 "Eternal Vigilance Is The Price Of Liberty"

1920: The Palmer Raids

1925: The Scopes Case

1926: "Riot Law" in Passaic Textile Strike

1927: Sacco and Vanzetti

1931: The Scottsboro Case

1933: "Ulysses" Book Censorship Case

1937: Free Speech for Ford Motor Company

1938: Mayor Hague: Right of Assembly in Jersey City

1941: First Smith Act Case

1942: Wartime Evacuation of Japanese-Americans

1943: Jehovah's Witnesses: Flag Salute Case

1948: ACLU Team Surveys Freedom in Occupied Germany

1950: Federal Employee Loyalty-Security Program

1951: "The Miracle" Film Censorship Case

1952: First Challenge of State Department Passport Policy

1954: Congressional Investigating Committee Abuses: McCarthyism

1959: Birth Control Laws

1960: Federal Protection of Negro Voting Rights

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5-10 (Rev. 12-16-59)

CENTRAL RESEARCH SECTION

MR. W. C. SULLIVAN *2/15*

MR. R. W. SMITH

Internal Security Section

Crime Records Division

MR. F. J. BAUMGARDNER

Mr. M. A. Jones

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

5254 Nationalities Intelligence Sec.

Mr. J. H. Kleinkauf

MR. S. B. DONAHOE

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Espionage Section

MR. W. A. BRANIGAN

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Civil Rights Unit, Investigative Division

MR. C. L. MCGOWAN *(shall we file?)*

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

MR. BRENNAN

Mr. [redacted]

Miss [redacted]

Mr. [redacted]

Miss [redacted]

Miss [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Mr. [redacted]

Miss [redacted]

Mr. [redacted]

Mr. Sizoo

Mrs. [redacted]

Indicate if summary (S) or full translation (F) is desired by placing symbol and your initials next to article in Table of Contents. Publication File material may be marked for very limited indexing only.

For information

Supervisor

W. C. SULLIVAN

7627

*Central
Research*

61-190-

NOT RECORDED

13 MAR 10 1960

51 MAR 11 1960

FILE 61-190

UNITED STATES GOVERNMENT

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 11-25-2011

Memorandum

TO : Mr. DeLoach.

DATE: February 18, 1960

FROM : M. A. Jones

SUBJECT: BERNARD WEISBERG

GENERAL COUNSEL

AMERICAN CIVIL LIBERTIES UNION (ACLU)

CHICAGO, ILLINOIS

~~CONFIDENTIAL~~CLASS. & EXT. BY 3903 DRK/ark
REASON-FCIM II, 1-2.4.2 2,3
DATE OF REVIEW 8-21-90Tolson
Mohr
Parsons
Belmont
Callahan
DeLoach
Malone
McGuire
Rosen
Samm
Trotter
Tele. Room
Ingram
Gandy

Bureau files have been reviewed on above-captioned individual in accordance with Mr. Tolson's instructions. (U)

In September, 1952, a memorandum was prepared as a result of a "name check" on Weisberg who was being considered as a prospective law clerk by Supreme Court Justice Clark. In connection with that appointment, Weisberg submitted an application which reflected that he was born 12-16-25 at Columbus, Ohio. He received an A.B. degree 6-48 and a J.D. degree 6-52 from the University of Chicago. (U)

Weisberg has been practicing law in Illinois since 1952 and is connected with the firm of Gottlieb and Schwartz, Chicago, Illinois. He formerly worked for the National Jewish Hospital in Denver, Colorado, and for Dun and Bradstreet in Chicago, Illinois. (U)

In April, 1945, a Doctor Deborah Vivian, a Chicago physican who had among her clientele all the top functionaries of the Communist Party in Chicago and who was a known contact of the Soviet Espionage Agent Arthur Adams, contacted a Bernard Weisberg. The purpose of the contact was unknown and no additional identifying data concerning Bernard Weisberg was reported. In view of the subject of this memorandum's background, he presumably was residing in Chicago in April, 1945. (U)

In 1948 a Loyalty of Government Employees investigation was conducted of one Sam Losin, possibly an uncle of Bernard Weisberg, a law student of the University of Chicago. This investigation was based on an allegation that Losin was allegedly a member of the Communist Party and had made his home in Columbus, Ohio, available for the use of Communist Party members. It was reported that he frequently stayed overnight at Bernard Weisberg's apartment. Investigation by the FBI did not substantiate the allegation against Losin, and persons interviewed in the area where Weisberg resided believed him loyal to the United States. (U)

~~CONFIDENTIAL~~

52 APR 1 1960

TFM:mhd

(2)

REC-54

EX-135

Classified by 70900-406 (U)
Exempt from automatic
Date of Declassification Indefinite

CRIME RECORDS

Jones to DeLoach Memo
Re: BERNARD WEISBERG

~~CONFIDENTIAL~~

On February 19-20, 1960, an International Conference on Law Administration, Northwestern University School of Law, is to be held in Chicago, Illinois. This Conference is to take up matters pertaining to police policies and is one of a series held by the Northwestern University School of Law on "Preservation of a Free Society under Law." It is financed by a grant from the Ford Foundation. Discussions at the Conference are to be directed by a panel including 12 persons from the United States and other foreign members. There is unfavorable information in Bureau files on six of the United States participants including Bernard Weisberg, General Counsel American Civil Liberties Union. A memorandum from Mr. Malone to Mr. Mohr 1-12-60 regarding this Conference reflects that Weisberg was listed in Adam Yarmolinsky's booklet entitled "Case Studies in Personnel Security" as a person who assisted Yarmolinsky in gathering personnel security case histories in 1955. This study was sponsored by the Fund for the Republic. The "Daily Worker" of 10-5-56 reported that Weisberg's brief was filed by the ACLU in argument against the constitutionality of the membership clause of the Smith Act. (u)

RECOMMENDATION:

This is for your information.

see
2/19

TRM

2

V

HW

SPB (u)

~~CONFIDENTIAL~~

F B I

Date: 4/7/60

Transmit the following in _____
(Type in plain text or code)Via AIRTEL AIR MAIL - REGISTERED
(Priority or Method of Mailing)

TO : DIRECTOR, FBI (61-190)

FROM : SAC, LOS ANGELES (100-3267)

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
INTERNAL SECURITY - C

b6
b7C

REC-39

On 4/6/60 [redacted] of Valencia Property Company, the corporation which owns the building occupied by the Los Angeles Office, furnished a letter (copy) received by him on 4/6/60 which was addressed to "Dear fellow alumnus of the University of Chicago", which solicited a contribution of ten dollars or more to the American Civil Liberties Union (ACLU). The letter was signed PHILIP WAIN. One photostatic copy of this letter is enclosed.

[redacted] said he is personally acquainted with WAIN and that WAIN holds no office or position in the University of Chicago Alumni Association; WAIN associates himself with groups and organizations whereby he can write letters of various sorts in concern with many causes. WAIN has previously sent [redacted] letters concerning activities at the University of Chicago.

[redacted] had written a letter of disapproval to the University of Chicago in which he stated WAIN should not be allowed to use the University of Chicago Alumni Association for his own purposes.

- 4 - Bureau (Enc. 1)
(1 - 100-334346) (PHILIP HENRY WAIN)
- 1 - Chicago (Info) (Enc. 1)
(AMERICAN CIVIL LIBERTIES UNION)
- 2 - Los Angeles
(1 - 100-30629) (WAIN)

RFJ:slb
(7) ENCLOSURE

APR 9 1960

Approved: _____

Sent _____ M Per _____

Special Agent in Charge

UNRECORDED COPY FILED IN 100-334346-101

LA 100-3267

PHILIP HENRY WAIN (Bufile 100-334346) has been the subject of a Security Matter - C and Fraud Against the Government investigation of the Los Angeles Office in that he executed a Personnel Security Questionnaire in 1953 in which he failed to list membership in the Young Communist League and the Civil Rights Congress. The Department of Justice advised prosecution was not warranted because corroborative evidence of CRC membership was lacking.

A copy of this communication with one photostatic copy of instant letter is being furnished the Chicago Office for information.

PHILIP WAIN & COMPANY

CERTIFIED PUBLIC ACCOUNTANTS

PHILIP H. WAIN, C.P.A.
IRVING E. NELSON, C.P.A.
JOHN L. SHAW, C.P.A.

8907 WILSHIRE BLVD.
BEVERLY HILLS, CALIFORNIA
OLYMPIA 2,7780 - OLEANDER 5 6297

OFFICES
CHICAGO
LOS ANGELES

April, 1960

Dear Fellow Alumnus of the University of Chicago:

The cause on whose behalf I write this letter requires more than a generous heart; it requires an understanding heart.

Because you have the rare quality of understanding the relationship of freedom of speech to the democracy in which we live, I appeal to you for support for the American Civil Liberties Union.

Who else comes forward to defend the rights of the little guy -- fired from the University -- a janitor or a prof? Who else supports by court action the church that faces discriminatory taxation because of what it believes to be legislative interference with a right endowed to places of worship by the Bill of Rights? The ACLU has no favorites in its determination to protect the rights of minorities and has been unusually successful.

The financial burden has been carried for the last 40 years by a handful of men and women. Of late, the number of cases has increased beyond our ability to handle them. The old-timers must have help -- spread as widely as possible. So, I'm asking you to send in the enclosed envelope a check, payable to ACLU, for \$10.00 -- more, if you can. It is urgent!

Sincerely yours

Philip Wain
Philip Wain

61-192-807
ENCLOSURE

UNITED STATES

Memorandum

TO : Mr. DeLoach

DATE: April 4, 1960

FROM : M. A. Jones

Tolson _____
 Mohr _____
 Parsons _____
 Belmont _____
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire _____
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan _____
 Tele. Room _____
 Ingram _____
 Gandy _____

SUBJECT: LAWRENCE SPEISER
 DIRECTOR, WASHINGTON OFFICE
 AMERICAN CIVIL LIBERTIES UNION (ACLU)

On April 1, 1960, at 4:55 p.m., Dr. Edward L. R. Elson telephoned the Director's Office and asked if it would be possible for someone to check and see if we have any information on Speiser which could be given to Dr. Elson for his guidance. Dr. Elson did not want the young people of the church exposed to adverse influences if there is a possibility that Speiser is not all that he should be. Dr. Elson was told that his request would be given to Mr. Hoover immediately and that he would hear from us.

By attached memorandum dated September 3, 1959, background and biographical data and information in Bufiles were set forth concerning Speiser. This memorandum reflects that Speiser, born in 1923, has an extensive background in defending individuals who were either communists or procommunists. He appeared before the House Committee on Un-American Activities (HCUA) in 1959 as the attorney for Clinton E. Jencks. Mr. Hoover suggested that the HCUA be alerted to Speiser's designation as Director of the Washington Office of the ACLU. This was done.

Irving Ferman, Speiser's predecessor at local office of ACLU, brought Speiser in to visit Mr. DeLoach on October 13, 1959. Mr. DeLoach noted that Speiser appeared intelligent but extremely idealistic. Speiser commented that Dorothy Schiff of the New York Post dealt in yellow journalism and was not to be trusted. Ferman later expressed the opinion that Speiser could be "handled." The Director commented, "Be most circumspect in dealing with Speiser. See that no comment is made to him re Schiff articles."

REC-25 61-190-808

A clipping from the "Washington Post and Times Herald" of January 30, 1960, reflects that Speiser would represent seven persons subpoenaed by the HCUA in its probe of communists' activities among youth groups. These included Paul Robson, Jr.

RECOMMENDATION:

6 APR 12 1960

That Dr. Elson be orally and confidentially briefed regarding the pertinent data in this memorandum, and the attached memorandum, by someone in your office.

Enclosure

1 - Mr. DeLoach

1 - Mr. [redacted]

RWK:ncr/cbc (6)
62 APR 18 1960b6
b7C

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

April 1, 1960

4:55 pm

Dr. Edward L. R. Elson telephoned and asked if it would be possible for someone to check and see if we have any information concerning Lawrence Speiser which could be given to him for his guidance.

He said he did not want to have the young people of the Church exposed to adverse influences if there is a possibility that Mr. Speiser is not all that he should be. He indicated vaguely that Lawrence Speiser may be connected with the American Civil Liberties Union.

Dr. Elson was told that his request would be given to Mr. Hoover immediately and that he would hear from us.

Unless otherwise instructed, Mr. DeLoach will be asked to handle this matter.

hwg:edm

Mr. Mohr _____
Mr. Parsons _____
Mr. Belmont _____
Mr. Callahan _____
Mr. DeLoach _____
Mr. Malone _____
Mr. McGuire _____
Mr. Rosen _____
Mr. Tamm _____
Mr. Trotter _____
Mr. Jones _____
Mr. W.C. Sullivan _____
Tele. Room _____
Mr. Ingram _____
Miss Holmes _____
Miss Gandy _____

REC- 25

61-180-809

6 APR 12 1960

EX-112

CRIME REC.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: April 5, 1960

FROM : C. D. DeLoach

SUBJECT: LAWRENCE SPEISER
 DIRECTOR, WASHINGTON OFFICE
 AMERICAN CIVIL LIBERTIES UNION (ACLU)
 DR. EDWARD L. R. ELSON

Tolson _____
 Mohr _____
 Parsons _____
 Belmont _____
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire _____
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan _____
 Tele. Room _____
 Ingram _____
 Gandy _____

Pursuant to instructions, at 10:15 a.m. today Wick talked on the telephone with Dr. Edward L. R. Elson briefing him confidentially on the background of Lawrence Speiser. Dr. Elson was most appreciative.

Dr. Elson said he has of late become concerned with the type of speakers appearing before the young adults meeting at his church Sunday evenings. Among them is Mr. Speiser who, he said, has either been extended an invitation or has already spoken. He said one of his assistants is handling this matter of the Sunday evening invitations. Dr. Elson pointed out to Wick that certainly under no circumstances would he countenance this man's appearance before the youth of his church.

b6
 b7C

1 - Mr. []
 1 - Mr. Jones

REW:sak
 (5)

EX- 105

REC- 82

6 APR 12 1960

52 APR 15 1960

CRIME

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

10:25AM

April 19, 1960

Mr. Tolson _____
Mr. Mohr _____
Mr. Parsons _____
Mr. Belmont _____
Mr. Callahan _____
Mr. DeLoach _____
Mr. Malone _____
Mr. McGuire _____
Mr. Rosen _____
Mr. Tamm _____
Mr. Trotter _____
Mr. Jones _____
Mr. W.C. Sullivan _____
Tele. Room _____
Mr. Ingram _____
Miss Holmes _____
Miss Gandy _____

DC
Mrs. ANN C. WHITMAN, Personal Secretary to the President, telephoned from Augusta, Georgia and inquired whether or not the FBI had cleared a letter to be sent to the Civil Liberties Union in regard to their 40th anniversary. She said the President did not like the idea of sending the letter, even though the Department of Justice had cleared it.

Mrs. Whitman was referred to Mr. Parsons. Mr. Parsons told her he would check into the matter and call her back.

Mr. Parsons is preparing a memorandum.

rpy

EX- 105

REC- 46

61-190-

APR 21 1960

67 APR 28 1960

Crime Research

UNITED STATES GOVERNMENT

Memorandum

TO : MR. TOLSON

DATE: April 19, 1960

FROM : D. J. PARSONS

SUBJECT: AMERICAN CIVIL LIBERTIES UNION (ACLU)
MR. ERNEST ANGELL

Tolson ☒
 Mohr ☐
 Parsons ☐
 Belmont ☐
 Callahan ☐
 DeLoach ☒
 Malone ☐
 McGuire ☐
 Rosen ☐
 Tamm ☐
 Trotter ☐
 W.C. Sullivan ☐
 Tele. Room ☐
 Ingram ☐
 Gandy ☐

By reference from the Director's Office, I took a call from the President's personal secretary, Mrs. Ann C. Whitman, calling from Augusta, Georgia. She said she had a letter addressed to Mr. Ernest Angell of the ACLU congratulating the ACLU on its 40th anniversary. She said this letter had been cleared with the Department of Justice but the President wanted her to check with the Bureau since he was wondering if this was a good idea, and she asked if this had been previously called to our attention. I said I was pretty sure it had not, but I would check and call her back.

Ernest Angell has been chairman of the board of the ACLU since 1950. Our files do not show any membership on his part in front organizations, though he obviously is an extreme liberal and was a member of the National Lawyers Guild in 1938.

In 1955 he testified before the Subcommittee on the Reorganization of the Senate and during his testimony made a comment that the Bureau and other investigative agencies of the Government were spread too thin due to the volume of work to be handled. He cited an investigation which had been made by the Bureau "some years ago" of Thomas K. Finletter, when in fact Finletter had already been employed in the job four months. Angell was thereafter contacted by a Bureau representative concerning this testimony, at which time he said he did not intend to be critical, but he did feel that the Bureau was overburdened; that a better selection of the Government employees to be investigated for loyalty should be made; that only those in positions affecting national security and on whom derogatory information had already been received should be investigated under the loyalty program. The investigation of Finletter to which Angell referred in his testimony was actually an applicant-type investigation conducted under the European Recovery Program in 1948, during which Angell was interviewed.

The ACLU has, of course, advocated liberal viewpoints which have paralleled communist views and while the organization as such has not been cited either by the House Committee on Un-American Activities or under Executive Order 10450, the Los Angeles chapter of the ACLU was cited by the California State Factfinding Committee on Un-American Activities in 1949 as heavily infiltrated with communists and fellow travelers.

1- Mr. Belmont
 1- Mr. DeLoach

DJP/mek (4) 67 APR 28 1960

EX-105 REC-10

61-190-812

APR 21 1960

UNRECORDED COPY FILED IN 100-44772-

Memorandum from Mr. Parsons to Mr. Tolson
Re: American Civil Liberties Union (ACLU)
Mr. Ernest Angell

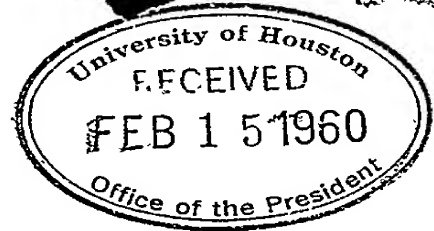
After checking with you, I called Mrs. Whitman back and told her this had not been previously checked with us and while we did not know whether there was any compelling reason for sending this letter, we had no basis on which to urge it. I mentioned to her that it was a controversial organization and had a number of people who were controversial and extremely liberal. I did mention the California citation. Mrs. Whitman said she did not feel the reason was a compelling one though they had had a request in writing and while she did not have it before her, she thought the signer was an assistant director of the organization. She said she understood our feelings on the matter and said she would advise the President.

ACTION:

For information.

d

AMERICAN CIVIL LIBERTIES UNION
170 FIFTH AVENUE
NEW YORK 10, N. Y.



FEB 11 1960

Memorandum

To Officers of Colleges and Universities
with Request for Reply.

The enclosed statement on contract research, with its dangers to university control and academic freedom as presently conducted, is sent to you for consideration by yourself and the appropriate officers of your institution.

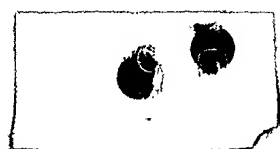
A report of your position in the matter, and of any action you have taken or contemplate, would be welcome, as an addition to our collection of data on this matter.

Sincerely yours,

H. H. Giles
Executive Officer
Academic Freedom Committee

1933-37 inst. prof. Engle
Olin Note (hope grad. work)
Since then social
work in American
Freedom - Julius Rosenberg
enc. [King's Club, Hall House] during WWII
Am. Council Race Relations. Ben. In-
tercultural 5th div
then Prof. of Gen. and Social Admin.
Human Relations Studies, N.Y.U.
The very kind of person who gets
sucked in.

ANONYMOUS COMMUNICATIONS
RE ATTACHED



Handwritten signature

Handwritten signature

EX-105

REC-68

61-190-813

3 APR 26 1960

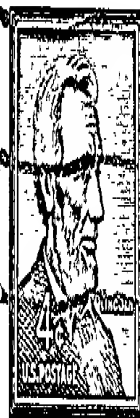
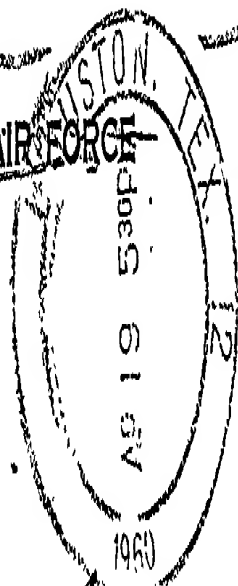
ENCLOSURE

MAY 5 1960

*no action taken
anonymous communication*

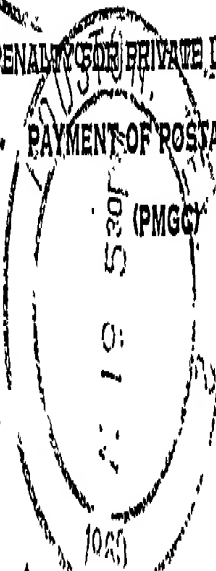
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DEPARTMENT OF THE AIR FORCE



PENALTY FOR PRIVATE USE TO AVOID

PAYMENT OF POSTAGE, \$300



OFFICIAL-BUSINESS

*Federal Bureau of Investigation
Dept. of Justice
Washington 259C*

STATEMENT

By the Academic Freedom Committee

of the American Civil Liberties Union

Few would argue that large scale support for the scholarly activities of university and college faculties does not serve the best interests of the nation and of mankind. Sponsored research has made tremendous contributions to American scholarship and higher education in many ways quite apart from the obvious increase in the volume of research activity. It has made it possible for universities to maintain strong science faculties in the face of intense competition from outside agencies carrying on exciting work in newly developed fields. It has supplied much of the modern strength in graduate education, not only in the form of financial support to graduate students, but also in providing for them adequate scope for research training and experience.

Our colleges and universities are irrevocably dependent on the support they have been receiving in the form of sponsorship of research, and indeed this

of sponsorship of research, and indeed this
ENCLOSURE 61-198-813

This page, being true, makes me

Explanations
are
bad - -2-

RR

So
are
revolutionary
appeal
to
justice
or
jealousy?

No!

No one
likes
bureaus.

If you
don't
agree,
you
are
in trouble.

support must continue to increase rapidly in the years ahead. However, it is evident that the explosive nature of the present increase is exerting a revolutionary influence on the structure and functions of our higher educational system, and that the short term and long term effects of this influence are not receiving the careful study they merit. We are proceeding in a haphazard way, with parts of the academic community enjoying a newfound prosperity, giving but little attention to the far-reaching changes being, so to speak, forced on our universities. It must be clearly recognized that if outside financing of university research and graduate education, particularly in the natural sciences, continues to follow present patterns, it will inevitably lead to a very serious erosion of university control of university activities. We should face squarely the question as to whether we are prepared to break with the long-established tradition which entrusts to universities a large measure of autonomy in their proper functions of education and research - whether we are prepared to replace a significant fraction of this autonomy by a patchwork control exerted by a variety of bureaus with widely differing aims and interests. It would appear evident that a rational decision in this matter, admittedly very difficult to arrive at now, will become increasingly so with the passage of time and the creation of new vested interests.

It may be asked why this problem is one of proper interest to a group which concerns itself with matters of academic freedom. The term academic freedom is frequently considered to refer to the rights of individual faculty members in their relations with university administrations and society as a whole. A very important facet of academic freedom, which has perhaps not been as frequently brought into public attention by the pressure of events, is the freedom of the university as a corporate body so to manage its own affairs that it maximizes what it considers to be its important contributions to society.

How far can we be stretched?

I am for academic freedom. This forces what this PEO - Communist organization is attempting!

Brief reflection shows that any serious compromise of this broad aspect of academic freedom may well lead to significant impairment of the individual rights of faculty members, either as members of a university or as private citizens.

Various individuals and groups, speaking as isolated voices, have called attention to some of the problems introduced by the mushrooming non-university support of academic research and graduate education. It is the thesis of the present statement that an adequate answer to the broader problem of preserving university autonomy in the face of heavy subsidization from outside will lead to solutions of many of the more specific problems - indeed, will provide the only possible path to such solutions.

It appears worthwhile to point out here, without full documentation, a number of the results of government and private sponsorship which appear to us most effectively to emphasize the trend away from university autonomy which has occurred, all but unnoticed, in recent years. Most of these specific problems have been more adequately considered by others¹, but they are included

Nevertheless quite scholarly approach!

(1) See, for example, the following: (a) "Government-University Relationships in Federally Sponsored Scientific Research and Development", National Science Foundation NSF 58-10, April, 1958. (b) "Sponsored Research Policy of Colleges and Universities." Report of the Committee on Institutional Research Policy, American Council on Education, December, 1954. (c) "Some Dilemmas in Graduate Education." Report by John C. Weaver to the Carnegie Corporation of New York, 1958. (d) Statement of McGeorge Bundy of Harvard University before the Subcommittee on Reorganization of the Committee on Government Operations of the U. S. Senate, March 15, 1955. (e) "Scrutiny of Professors", L. Joughin, Bull. Amer. Assoc. Univ. Prof., 44, 199 (1958).

here in order to give a reasonably fully developed picture.

It is obvious that the application of government security procedures in universities in which classified research is conducted on campus under contracts with federal agencies can lead to situations in conflict with the personal rights of faculty members, including even those who are not engaged in classified research, and can effectively limit the freedom of the university in applying its own proper criteria in the selection of its staff. The case against the acceptance by universities of contracts for classified research has been eloquently stated^{ld} by Dean Bundy of Harvard. Even in cases of government contracts for completely unclassified research, considerations of political affiliations have entered into the selection of research personnel. We may cite the case of a contract between the Atomic Energy Commission and a leading university which was prematurely terminated when it was found that one of the participating faculty members had leftist political leanings. *Now!*

For a brief period, the Department of Health, Education and Welfare held to a policy according to which Public Health Service research grants were not awarded to scientists of currently unpopular political beliefs. *Well not. Merit. That's a shame?*

Funds for sponsored research are more readily available in some fields of knowledge than in others, so that important areas of scholarship may be neglected. Of the nearly half a billion dollars placed by federal agencies in universities in 1958, 95% went to the natural sciences.^{lc} Continuation of this trend cannot fail to bring a relative impoverishment to the humanities and social sciences which would certainly not occur if the universities and university scholars were permitted free exercise of their own judgements. In the matter of financial aid to graduate students, and extra financial rewards to faculty members, severe imbalance in favor of the natural sciences is likewise developing under existing patterns of subsidization. *"Poor fools!"*

Because of the threat from the Soviet Union and followers such as the Am. Civil Liberties Union

Especially when they are known Reds!

Granting agencies are frequently favorably inclined toward ambitious proposals for so-called programmatic research to a degree which was not evidenced by the universities when they controlled the financing of their research activities². It is well recognized that very impressive results have in many

(2) Recognition of the receptiveness accorded to ambitious proposals has lead to the development of practices which should be considered as beneath the ideals of academic propriety and dignity. A recent issue of a scientific weekly carried an advertisement seeking a "financial administrator," for a university research group of 20 scientists, whose duty it would be to seek and maintain sponsorship of the research program from government and industry; it was stated that applicants for the position must have previous experience in obtaining sponsorship and writing up proposals.

instances flowed from large scale research programs, most notably in the field of nuclear physics. Indeed, many aspects of modern scientific research can be effectively pursued only on a programmatic basis. However, it is also well recognized that in this country it is becoming increasingly difficult to develop support and appreciation for the highly individualistic investigator who contemplatively follows the paths into which his idle curiosity directs him. It is from such unplanned efforts that the fundamental advances in scholarship have always sprung; the studies of Isaac Newton, Michael Faraday or J. Willard Gibbs could not have been programmed.

Certain governmental and industrial sources of funds are, quite understandably, more interested in supporting activities which are developmental rather than fundamental in character. Universities bear a heavy responsibility for fostering the creation of basic knowledge, and we can ill afford to have their staffs and facilities lured by financial inducements into the study of matters of immediacy.

Oh the pomp heart moral back

The lion's share of sponsoring funds goes to institutions with outstanding scientists on their faculties and already strongly developed research activities. Thus the stronger schools become proportionately even stronger, and it becomes increasingly difficult for less well established institutions to meet the competition for staff, students and finances. It might be argued that this tendency is healthy, that we already suffer from an overabundance of weak colleges and universities. However this may be, the tendency should be recognized and discussed, rather than ignored.

But this is not true of A.H.

The situation with respect to institutions is paralleled by the relative ease with which scientists with well established reputations secure generous support for their activities as compared with younger scientists who are actually more apt to come forward with original ideas and are more able to pursue them with vigor.

There is good basis for the view that the indirect costs of sponsored research are larger than the overhead allowances included in most research contracts and grants, and that most fellowships and scholarships awarded by government and private agencies include insufficient amounts for the institution to cover the actual costs of the education it supplies. Thus the large sums channelled into universities under present arrangements may be aggravating their already acute financial problems. This in turn may lead to further intensification of the imbalance between disciplines, since university funds previously available to the social sciences and the humanities may have to be diverted to help underwrite the indirect costs of sponsored activities in the natural sciences.

Now the appeal is to the university business managers

above

There are many clumsy features in the present splintered arrangements for the administration of outside support for academic activities which lead to serious wastes of time and funds. This is particularly true of governmental support. A large university may receive several million dollars annually in

government research contracts and grants. For the most part, these funds are awarded to individual faculty members, who may number in the hundreds. Each of these has had to prepare a more or less elaborate proposal which in turn has been subjected to detailed review and appraisal by officials in Washington and panels of government, academic and industrial scientists. Anyone familiar with these procedures is well aware that at the very least no charges of irresponsibility can be levelled at the various granting agencies; the most sincere efforts are made to insure that the taxpayers' money is well spent. But when these procedures are compared with the informal conversations between university administrative and academic personnel which usually precede the granting of university support to a research or educational project, it is evident that much time and effort is lost which could better be employed in productive activity. Then there is the matter of reports. Many agencies require annual progress reports, and more detailed reports at the termination of a contract or grant. The only evidence of accomplishment supplied to a university administration by one of its staff takes the form of published articles or books, or of recognition on the part of other scholars. An already bewildering array of diversified fellowship programs, ingenious programs for improving education and teaching at secondary, college and graduate levels (complete with "validating" questionnaires prepared by commercial "research" institutions), and schemes for developing interest in scientific careers on the part of high school and college students is being continually added to, with accompanying serious inroads on the time college administrators and teachers have available for their proper functions.

The foregoing summary of some of the problems arising from government and private subsidy of university activities leads us back to the basic question raised earlier - is it in the interest of society to permit the universities

Communism

T
?
or

Democracy

Mr. 1 appeal is
directed to law project

So,
let's
all
feed
these
tents
and
steal
away

to lose a large measure of their authority in shaping the development of their own affairs? We urge that this is a question of the first importance to the nation and to society, and that developments rendering difficult a wise decision are multiplying at such a rate that no time should be lost in instituting an objective review of the situation on a nationwide scale.

11/24/59

UNITED STATES

Memorandum

TO : Mr. Mohr

DATE: 4-27-60

FROM : J. F. Malone

SUBJECT: [REDACTED]

FIRE AND POLICE PROTECTIVE
LEAGUE; ALSO [REDACTED]
LOS ANGELES POLICE DEPARTMENT (LAPD)

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

b6
b7c

On April 27, 1960, [REDACTED] called at the office. He stated that the purpose of his call was to acquaint the Bureau with a problem with which he is being confronted in Los Angeles. He pointed out that there appears to be a concerted effort on the part of the American Civil Liberties Union throughout the country to set up police review boards separate and apart from law enforcement agencies to hear citizens' complaints of mistreatment by police and recommend disciplinary action. In Los Angeles, according to [REDACTED] there have been numerous assertions of police brutality by minority group members in several cities. He stated that the League he represents is taking every step possible to fight the formation of such citizen review boards. It was pointed out to [REDACTED] that Chief Parker's public resentment of FBI investigations of allegations of civil rights violations, as ordered by the Department of Justice, would not seem to help his cause.

Malone pointed this out.
[REDACTED] commented that speaking as a member of League and not as a member of the LAPD, the League is extremely happy that the FBI conducted the civil rights investigations of the LAPD. Regardless of how Parker felt about the investigations, according to [REDACTED] they strengthened the League's position immeasurably in combatting the American Civil Liberties Union agitation for a citizen's review board.

[REDACTED] was very pleasant. He left some literature on the Fire and Police Protective League which is attached.

RECOMMENDATION: None. Informative.

ENCLOSURE

JFM:job
(3)

1 - Mr. Rosen
Enclosure

NOT RECORDED

167 MAY 4 1960

67 MAY 4 - 1960

FBI
RECEIVED - LOS AN

MAY 11 11 53 AM '60

ORIGINAL COPY FILED IN 62-24550-693

1 - Mr. [REDACTED]

April 28, 1960.

Mr. [REDACTED]

Alameda, California

Dear Mr. [REDACTED]

Your letter dated April 19, 1960, with its enclosures, has been received, and the interest which prompted your communication is indeed appreciated.

In response to your inquiry, I must advise that the jurisdiction and responsibilities of the FBI do not extend to furnishing evaluations or comments concerning the character or integrity of any individual, publication or organization. The FBI is strictly an investigative agency of the Federal Government and, as such, does not issue clearances or nonclearances.

The FBI does not prepare or maintain a list of organizations of the type you mentioned. The Committee on Un-American Activities, United States House of Representatives, however, has prepared and released a pamphlet entitled "Guide to Subversive Organizations and Publications," which may be of assistance to you. This pamphlet may be obtained for thirty-five cents per copy by communicating directly with the Superintendent of Documents, United States Government Printing Office, Corner North Capitol and H Streets, Northwest, Washington 25, D. C.

I am returning the postage you so thoughtfully enclosed with your letter.

Sincerely yours,

John Edgar Hoover
Director

Enclosures (2)

1 - San Francisco (See note page two)

SEE NOTE ON YELLOW, PAGE TWO

MAIL ROOM ☐ TELETYPE UNIT ☐

RDS:kmo (4)

MAILED 30
APR 28 1960
COMM-FBI

50 MAY 5 1960

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

b6
b7C

Mr. [REDACTED]

ATTENTION: SAC, SAN FRANCISCO

① Correspondent advised that before joining the American Civil Liberties Union (ACLU), he would like to know if the organization is subversive. He also requested a published list of subversive organizations and enclosed two four-cent stamps to cover the mailing of this material.

Bufiles contain no identifiable information concerning the correspondent.

The ACLU, with headquarters in New York City, has not been investigated by the Bureau. The Los Angeles Chapter has, however, circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the ACLU to investigate the Bureau. (61-190)

NOTE ON YELLOW:

If we advised correspondent we have not investigated the ACLU, it may be construed as a clearance of the organization by the FBI. In view of the activities of chapters of the ACLU on the west coast and criticism of the FBI by this organization, it is believed the above reply will best serve the interests of the Bureau.

APRIL 19 1960

Federal Bureau of Investigation
Washington D. C.

Gentlemen:

MINC
A friend of ~~my~~ belongs to and attends
a group called the American Civil Liberty Union,
and before I attend - I would like to know if
this a AOO American group, if its on your subversive
list etc., Also could I have a published list of
subversive organizations.

Thanking you, I remain,

Yours very truly,

2E

Alameda, Calif.

b6
b7C

Enclosed find postage for material.

EX-131

gpl
MREC-15

5/6/60
61-190-814

12 APR 24 1960

ENCLOSURE
(24 stamps)

Ack 4-28-60 1-SF
RDS:RMO

[Signature]

1 - Mr. [redacted]

May 6, 1960

REC-16

61-190-815

b6
b7C

Mr. [redacted]
Minneapolis 7, Minnesota

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED 291-70/
DATE 12/7/88 BY SP1AG JC

Dear Mr. [redacted]

Your letter dated April 28, 1960, has been received, and the interest which prompted your communication is indeed appreciated.

The FBI has, from time to time, issued various statements and articles concerning the menace of communism to this country. In response to your request, I am enclosing some of this material which may be of interest to you.

Sincerely yours,

John Edgar Hoover
Director

Enclosures (8)

1 - Minneapolis (enclosure)

ATTENTION: SAC, MINNEAPOLIS

Enclosed is a copy of correspondent's communication. Bufiles contain no identifiable data concerning the correspondent.

NOTE TO MINNEAPOLIS, CONTINUED, PAGE TWO

RDS:pw (4) SEE NOTE ON YELLOW, PAGE TWO FBI

MAILED 30
MAY - 6 1960
COMM-FBI

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

52 MAY 16 1960

47 wvc
5-11-60
#69

UNRECORDED COPY FILED IN

61-7582
94-53720
100-50864
62-103031

Mr. [REDACTED]

b6
b7C

NOTE TO MINNEAPOLIS. CONTINUED

The following items of literature were furnished to the correspondent:

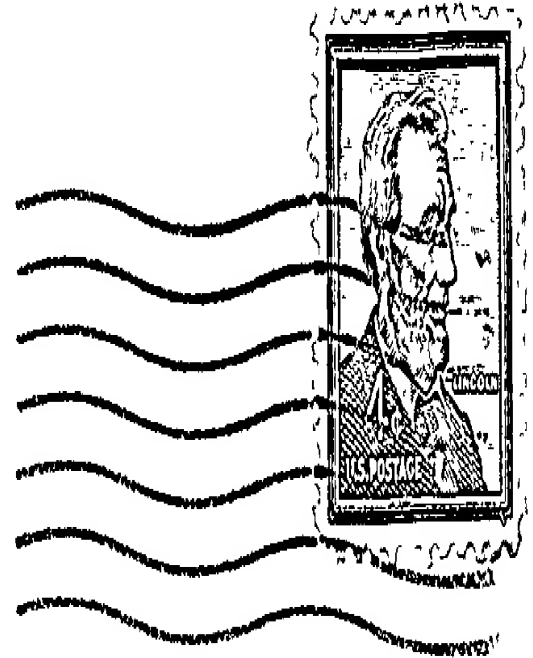
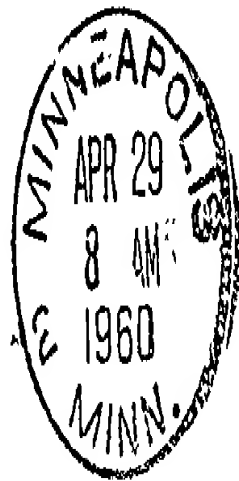
1. Statement of Director Concerning the 17th National Convention, Communist Party, USA, December 10-13, 1959.
2. "Communist 'New Look.'"
3. "Breaking the Communist Spell."
4. "God and Country or Communism?"
5. "Where do We Stand Today with Communism in the United States?"
6. "Communism: The Bitter Enemy of Religion."
7. "How to Beat Communism."
8. "Communist Illusion and Democratic Reality."

NOTE ON YELLOW:

Correspondent advises that an article in the local newspaper gave the impression there no longer is any need for "depressing communism" in government and refers to the Un-American Activities Committee as persecutors. The same paper contained an article indicating that Representative James D. Roosevelt had called on Congress to abolish the House Committee on Un-American Activities for its attack on the National Council of the Churches of Christ and the California educational system. Correspondent inquired if the situation is improving and if we have any recent literature on this subject.

MAY 2 11 23 AM '60

ED1-1021CE
REC'D 55-4141



Federal Bureau of Investigation

Washington, D. C.

b6
b7C

MINNEAPOLIS 7, MINNESOTA

April 28, 1960 *Fig 1*

Federal Bureau of Investigation
Washington, D. C.

Gentlemen:

6 AMERICAN

In our local paper, the Star, on April 25, an article appeared headed "Civil Liberties Union Demands End of un-American ~~Inquiries~~ Inquiries". The article would give the impression that no longer is there need for searching out and depressing communism in government, and they call the un-American Activities Committee persecutors. Also in the same paper was a brief article stating that Rep. James D. Roosevelt had called on the House of Representatives to abolish its committee for their attack on the National Council of Churches and the California educational system.

Some of us would like to know facts. Is the situation improving in reality - or are the Reds trying to make us think so?

If you have any recent literature on the subject, we would appreciate your sending a copy to us. Thanks.

HWA 10 10 11 11 11
Yours for the truth

*ACK,
1-MP w/enc.
5-6-60
RDS/pwr*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED 291-701
DATE 12/7/88 BY SP1AC3JC

*Doc exp
CO*

UNITED STATES GOVERNMENT

Memorandum

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 11-28-2011

Tolson _____
 Mohr _____
 Parsons _____
 Belmont _____
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire _____
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan _____
 Tele. Room _____
 Ingram _____
 Gandy _____

TO : Mr. DeLoach

DATE: 5-9-60

FROM : M. A. Jones

SUBJECT: ACTION BY AMERICAN CIVIL
LIBERTIES UNION (ACLU) RE~~CONFIDENTIAL~~

b6

b7C

100-339016

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
EXCEPT WHERE SHOWN
OTHERWISE

By letter 5-5-60, Patrick Murphy Malin, Executive Director, ACLU, and Samuel Hendel, Chairman, Academic Freedom Committee, ACLU, enclosed for the information of the Director, as a member of the Board of Trustees of George Washington University, a copy of a 5-4-60 letter to President O. S. Colclough of George Washington University. Malin and Hendel advised they would be happy to receive any comment by the Director concerning this matter.

The lengthy ACLU letter to President Colclough criticized the University's actions in dismissing [] in that they "constituted a serious breach of academic freedom." The ACLU urged the University to void its dismissal of [] to acclaim the "new birth of freedom" that is replacing fear and conformity on college campuses.

It is noted that the 5-9-60 issue of "The Washington Post" carried a two-column article entitled "GWU Urged to Revoke Dismissal of Professor" which set forth criticisms contained in the ACLU letter.

Pertinent information in Bufiles reflects []

Enclosure

1 - Mr. DeLoach

BS:dmc

MAY 26 1960

~~CONFIDENTIAL~~

MAY 20 1960

CRIME RESEARCH

UNRECORDED COPY FILED IN 100-339016

5-9-60

b6
b7c~~CONFIDENTIAL~~ACLU

The ACLU, founded in 1920, has never been investigated by the Bureau. The ACLU has advocated liberal viewpoints which have paralleled communist views. The ACLU as such has not been cited by the HCUA or under Executive Order 10450, but the Los Angeles chapter of the ACLU was cited by the California State Factfinding Committee on Un-American Activities in 1949 as heavily infiltrated with communist and fellow travelers. The ACLU is, by its own statements, a liberal but anti-communist organization, which in the past has done considerable sniping at the Bureau, mainly regarding wire tapping; however, contact and correspondence with its leaders have been conducted on a friendly basis.

PATRICK MURPHY MALIN*Executive Director -
American Civil Liberties Union - NY*

We have had cordial correspondence with Malin for a number of years and as recently as 2-9-60 the Director wrote Malin expressing appreciation for Malin's firm position of opposing any disclosure of information contained in FBI files.

SAMUEL HENDEL*Samuel*

In September, 1959, Professor Samuel Hendel, Chairman of the Government Department at City College of New York, was elected Chairman of the Academic Freedom Committee of the ACLU. Born 7-6-09, New York, New York, he received a LL. B. degree, Brooklyn Law School, 1930 and a Ph.D., Columbia University, 1941. In December, 1947, Hendel's name appeared on a throwaway as one of six speakers protesting the refusal of the CCNY Administration to allow a member of the CP to speak at the College. In 1949, Hendel was a member of the National Lawyers Guild.

RECOMMENDATION

That in view of the information contained in Bufiles regarding the Director not acknowledge the letter from ACLU.

*ERC
5/11**acknowledged
5/11*~~CONFIDENTIAL~~*concluded
H*

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American Civil Liberties Union

170 FIFTH AVENUE, NEW YORK 10, N.Y. • ORegon 5-5990

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DATE 7-7-82 BY SP8 JLB
#291,474

May 5, 1960

The Honorable J. Edgar Hoover, Director
Federal Bureau of Investigation
U. S. Department of Justice
Washington, D. C.

Dear Mr. Hoover:

We enclose, for your information as a member of the
Board of Trustees of George Washington University, a copy
of a May 4, 1960 letter to President Colclough. We should
of course be happy to receive any comment by you.

Sincerely yours,

Patrick Murphy Malin
Patrick Murphy Malin
Executive Director

Samuel Hendel
Samuel Hendel, Chairman
Academic Freedom Committee

ENCLOSURE

NO ACK.
SEE JONES - DELORCH
MEMO - 5/9/60 "ACTION"
BY ACLORE PROF.
BIX

ENCLOSURE

REC-78

101-190-816

MAY 20 1960

RESEARCH

Washington Office - 1612 Eye Street, N.W., Washington 6, D.C.; Lawrence Speiser, General Counsel; Penelope L. Wright, Executive Assistant
With organized affiliates in twenty-four states and 800 cooperating attorneys in 300 cities of 48 states

AMERICAN CIVIL LIBERTIES UNION

170 FIFTH AVENUE
NEW YORK 10, N. Y.

May 4, 1960

O. S. Colclough, Acting President
The George Washington University
Washington 6, D. C.

Dear President Colclough:

The American Civil Liberties Union has, through its Academic Freedom Committee, followed with care the events concerning the dismissal of [redacted] from George Washington University. In our letter of January 14, 1960, we informed you of our interest and requested information from you.

Since the only materials you sent to us were copies of two brief press releases, they of course added little or nothing to our information, and shed no light on the actual procedure of the University in this matter. You will understand, therefore, that the comments which follow are made without our having had the benefit of any helpful exposition of your views.

This letter is to inform you of our opinion that George Washington University's actions in this matter have constituted a serious breach of academic freedom, and to outline our reasons for this conclusion. Since several months have passed since [redacted] was dismissed, we are eager that George Washington and the public receive our opinion now. We hope that George Washington University will see fit to reconsider the matter in light of the opinion expressed in this letter and the importance of the issues involved.

The ACLU's criticism of the case of [redacted] falls into three major divisions:

1. The appearance of [redacted] before the House Un-American Activities Committee and his refusal there, on grounds of the Fifth Amendment, to answer questions about his political beliefs and associations did not constitute grounds for consideration of [redacted] "qualification and suitability" as a faculty member.

"Where there is substantial evidence of perversion of the academic process, but only then, a committee of colleagues may in an academic hearing inquire into beliefs and associations of a teacher, to the extent that they may be relevant to the assorted unprofessional conduct.

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61-190-816
ENCLOSURE

May 4, 1960

- 2 -

"The refusal of a teacher to answer questions put by a legislative committee does not in itself constitute substantial evidence of perversion of the academic process. The ACLU does not question the right -- many would say the obligation -- of teachers to investigate charges of incompetence or perversion of the academic process made against one of their colleagues, whenever and however these may come into issue. But the Union does not believe that any such issue may be said to arise by reason of the refusal of a teacher to answer questions put by a legislative committee, however advisable or inadvisable such refusal may be for legal or other reasons." (Academic Freedom and Academic Responsibility, ACLU policy statement of 1955, p. 14.)

2. Having improperly raised the question of [redacted] suitability, the University's handling of the matter was procedurally defective in several respects. Basic to the maintenance of academic due process are a statement of the charges, the right to attendance and meaningful participation by counsel, properly established hearing and appeal procedures and a clear set of standards in the form of relevant legislation, rulings, regulations, etc. All were lacking in the case of [redacted]

- a) Absence of charges. Despite the fact that [redacted] repeatedly sought to learn, through letters to you, precisely what issues were to be determined at each of the two hearings accorded him, no charges of any sort were at any time made known to him.
- b) Counsel. So far as the first hearing was concerned, [redacted] counsel was informed that his function was solely to advise [redacted] [redacted] with respect to "legal questions," and since none arose, counsel's participation was negligible and rendered meaningless. At the second hearing, in reply to his inquiry as to the standard by which [redacted] was to be judged, counsel was told he might submit a memorandum. Otherwise, his role was similarly negligible.
- c) Defective hearing procedure. A proper hearing requires that the teacher be informed in advance of the procedure to be followed, including a statement of the nature of the hearing body.

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O. S. Colclough, Acting President
The George Washington University

May 4, 1960

- 3 -

The hearing committee should be a standing or special group of full-time teaching colleagues, democratically chosen by and representative of the teaching staff, and selected by pre-established rules. Both these elements were absent in [redacted] case.

- d) Absence of standards. No standards were set forth by which charges, if made, might be judged. [redacted] was never informed of any relevant legislation, or any faculty, administrative or trustee ruling against which judgment was to be made.

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3. Even if applied in a proper case and with faultless procedure, it is clear that the standard which was in fact apparently used is a standard which is inconsistent with academic freedom.

Both the letter of the chairman of the Faculty Committee to you, following the first hearing, and your dismissal letter of [redacted] have as their focus the responsibility of the teacher to disclose all information concerning his political activities, beliefs and associations. While we do not claim that the criminal process must or should be followed in an academic case, we do believe that the spirit of the main principle underlying the Anglo-Saxon legal tradition should be respected. Therefore in an academic hearing, only when there is substantial evidence of abuse of the academic process is inquiry into such matters permissible, and the burden of proof is on the administration rather than the faculty member.

We are struck particularly by the following excerpt from your [redacted] "It is the view of the Board of Trustees that, considering all the circumstances, you consistently refused to provide information with which it might sensibly judge you and the integrity of your claim of conscience, and hence that you failed to meet university standards of candor and integrity." This passage would appear in part designed to meet the standard of the American Association of University Professors which would judge a case on the individual's entire record as a teacher and scholar, the reason which prompted his refusal to testify, and all other relevant circumstances. But the hearings apparently consisted solely in attempting to obtain the answers to questions about political activities, beliefs, and associations, and not at all with other issues. For example, even though the ACLU does not believe any judgment on [redacted] "sincerity" in refusing to answer would have been proper -- because the questions

O. S. Colclough, Acting President
The George Washington University

May 4, 1960

- 4 -

should not have been asked in the first instance -- there is no evidence that such judgment did indeed enter into the considerations. Instead, it appears that the key phrase is the last:

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"candor and integrity." We believe it is this on which [redacted]
[redacted] was judged and found lacking.

The standard of "complete candor and perfect integrity" is contained in the 1953 Statement of the Association of American Universities. The ACLU believes it constitutes a grave threat to academic freedom. In a March, 1958 pamphlet commenting on the AAU's 1953 statement, the ACLU said:

"A teacher undoubtedly owes candor and integrity to his colleagues on all matters which clearly relate to his academic function. If there is substantial evidence that his teaching has declined in effectiveness, he may be asked about an alleged excessive preoccupation with stamp-collecting. If there is evidence that he, John Doe and Richard Roe always vote as a bloc in staff meetings, he may be asked whether he and those men -- as alleged -- are members of the Communist Party. If there is substantial evidence that his lectures and reading lists slantedly favor a religious, political or economic doctrine, he may even be asked to discuss the beliefs he holds in the relevant area. But in all such investigations the institution has the right to initiate and carry on inquiry only where there is substantial evidence that the functions which it has the duty to supervise are not being properly carried out."

"There are countless activities, associations and beliefs about which a teacher owes no candor -- or any information at all -- to his colleagues. They are those which do not affect his professional integrity. Surely the administrators who signed the Association statement do not mean what they say. These presidents every day accept lack of candor on the part of their staffs. The sociology professor who offers a course on the family is not pressed about his pending personal divorce -- unless that private situation appears to be affecting his teaching. The teacher of the course in ethics is not asked to explain his part, as a church elder, in a clandestine conspiracy to dispossess an unsuitable minister -- unless that conspiracy is associated with a charge of misrepresentation to his classes of the ethical problems involved in conspiracy."

O. S. Colclough, Acting President
The George Washington University

May 4, 1960

- 5 -

"The AAU also states that a professor owes 'equal candor' to the public if called upon to 'answer for his convictions,' all the more so because he is a professor. In the opinion of the Academic Freedom Committee this dangerously over-simplified doctrine goes beyond a first, limited applicability, to a derogatory implication; and in fact opens the door to grave infringement of academic freedom and civil liberty.

"The professor may properly be required to disclose to the public his scholarly knowledge and scholarly opinion in his area of expert competence. He is merely being asked to extend his professional function outside the classroom.

"The professor cannot properly be asked to discuss his personal convictions even with regard to his area of expert competence. Such a request implies that he may be unprofessionally allowing his personal convictions to affect his teaching. It is an indirect charge against his integrity.

"The professor certainly may not be required to answer for his convictions on matters outside his professional area (except under such authority as governs all citizens). Such a requirement would mean that an individual who elects the teaching profession as a career surrenders the privacy which all other persons enjoy. He may be asked to state his political, economic, social, moral and religious convictions. If any of those disclosed convictions are sufficiently irritating to his community he may lose his job and face the end of his professional life. Under the AAU doctrine, teaching would become an activity of infinite hazard, totally lacking in that freedom which fosters knowledge. Teaching would also be categorically incompatible with civil liberty."

We have expressed our position at such length because the case of [redacted] concerns more than the dismissal of a single university professor. It symbolizes the treatment accorded other professors during the period of national security anxiety in the 50's, when mistrust and suspicion infected the college community and severely damaged intellectual freedom. We are now living in a new and better era, in which the spirit of freedom on the college

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O. S. Colclough, Acting President
The George Washington University

May 4, 1960

- 6 -

campus is replacing fear and conformity. George Washington has a unique opportunity to place itself on record in favor of this "new birth of freedom" which will make educational institutions what they should be -- a place of learning in an atmosphere of untrammelled freedom of thought and discussion. This George Washington can do by reversing its position and voiding the dismissal of [REDACTED]

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Sincerely yours,

Patrick Murphy Malin
Executive Director

Samuel Hendel
Chairman, Academic Freedom Committee

1 - Mr. [redacted]

May 24, 1960

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REC-19 61-190-817

Mrs. [redacted]

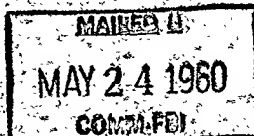
Susanville, California

Dear Mrs. [redacted]

Your letter postmarked May 12, 1960, with its enclosure, has been received, and the interest which prompted your communication is indeed appreciated.

In response to your inquiries, I must advise that it has been a long-standing policy of this Bureau not to comment upon the character or integrity of any individual, organization or publication. The FBI is strictly an investigative agency of the Federal Government and, as such, does not issue clearances or nonclearances. I am, therefore, precluded from furnishing the type of information you have requested. I am sure you understand the necessity for this policy and will not infer that we do or do not have in our files the information you desire.

Sincerely yours,



John Edgar Hoover
Director

Tolson _____
Mohr _____
Parsons _____
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Gandy _____

San Francisco (Enclosure) (See note page two)

SEE NOTE ON YELLOW, PAGE TWO

THF:kmo

(4)

50 JUN 3 1960

TELETYPE UNIT

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Mrs. [REDACTED]

ATTENTION: SAC, SAN FRANCISCO

Enclosed is a copy of correspondent's communication. Correspondent enclosed a masthead from the "American Civil Liberties Union News," which is published by the American Civil Liberties Union (ACLU) of Northern California. Bureau files contain no identifiable data concerning the correspondent.

The ACLU, with headquarters in New York City, has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the ACLU to investigate the Bureau. (61-190)

NOTE ON YELLOW:

Correspondent states the ACLU of Northern California came to the aid of a schoolteacher who had been dismissed. The local Republican Women's Club called the ACLU a communist front or organization. She states that on page 90 of "Masters of Deceit" she noted the mention of two communist organizations, the Emergency Civil Liberties Committee and the Civil Rights Congress. She asks if the ACLU could have been confused with these two organizations or is the ACLU a communist front.

[Redacted]
Susanville, Cal. ornia
May 5, 1960

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Washington, D. C.

b6
b7C

Dear Mr. Hoover:

The American Civil Liberties Union of Northern California recently came to the aid of a tenure teacher in our Lassen Junior College, whom the Lassen County Superior Court said the Board could dismiss because he was unprofessional for publicly criticizing the Board and administrative practices in this school district.

Immediately the local Republican Women's Club informed us that the American Civil Liberties Union is a communist front or organization.

The ACLU is appealing the court's decision which was based on a Code of Ethics, misrepresented by the California Teachers Association hirelings as having been written by the teachers of California and on a negative report of a CTA Panel of Experts who conducted a Kangaroo hearing in Susanville just prior to the court hearing.

I am reading your book "Masters of Deceit" and on Page 90 I note the mention of two communist organizations: Emergency Civil Liberties Committee and the Civil Rights Congress.

Has the American Civil Liberties Union been confused with those two organizations, or is the ACLU a Communist front, also?

I shall appreciate hearing from you as soon as possible.

Sincerely,

[Redacted Signature]

P.S. I am enclosing a masthead from the ACLU newspaper. In its May, 1960, edition it carries commendations from President Eisenhower and from Adlai Stevenson.

REC-19

EX-108

61-190-817
26
MAY 16 1960

ENCLOSURE

INFO ATTACHED

Ask 5-24-60 1-5F (encd)
H.F. King

5-74

67-170-517

AMERICAN CIVIL LIBERTIES UNION NEWS

Published by the American Civil Liberties Union of Northern California

Second Class mail privileges authorized at San Francisco, Calif.

ERNEST BESIG . . . Editor

503 Market Street, San Francisco 5, California; EXbrook 2-4692

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Wayne M. Collins

STAFF COUNSEL

Albert M. Bendich

1 - Mr. [REDACTED]

REC-33

61-198-818

May 26, 1960

EX-102

Mr. [REDACTED]
Attorney at Law

[REDACTED]
Erie 1, Pennsylvania

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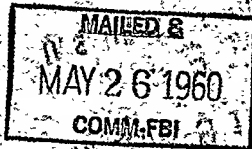
Dear Mr. [REDACTED]

Your letter dated May 17, 1960, has been received, and the interest which prompted your communication is indeed appreciated.

In response to your inquiry, I must advise that the FBI is strictly an investigative agency of the Federal Government and, as such, does not furnish evaluations or comments concerning the character or integrity of any individual, publication or organization. Consequently, this Bureau does not prepare or maintain a list of organizations of the type you have mentioned.

You might be interested to know, however, that the Committee on Un-American Activities, United States House of Representatives, has prepared and released a pamphlet entitled "Guide to Subversive Organizations and Publications" which may be helpful to you. This pamphlet may be obtained for thirty-five cents per copy by communicating with the Superintendent of Documents, United States Government Printing Office, Corner North Capitol and H Streets, Northwest, Washington 25, D. C.

Sincerely yours,



John Edgar Hoover
Director

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
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1 - Pittsburgh (enclosure)
SEE NOTE TO PITTSBURGH, PAGE TWO

RDS:pw (4) SEE NOTE ON YELLOW, PAGE TWO

51 JUN 2 1960

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REC'D CIVIL RIGHTS

Handwritten signatures and initials, including "FBI" and "RDS".

Mr. [REDACTED]

b6
b7C

ATTENTION: SAC, PITTSBURGH

Enclosed is a copy of correspondent's communication. Bufiles contain no identifiable data concerning the correspondent.

The American Civil Liberties Union (ACLU) with headquarters in New York City has not been investigated by the Bureau. The Los Angeles chapter, however, circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the ACLU to investigate the Bureau. (61-190)

The communist infiltration of the National Association for the Advancement of Colored People is the subject of a current Bureau investigation.

NOTE ON YELLOW:

Correspondent, an attorney, has been approached to assist in the organization of a branch of the ACLU. He is, however, of the impression this organization is "on Mr. Hoover's list as Unamerican" and that the ACLU engages in the defense of communists. Therefore, before joining the organization, he wants to know if we have the organization on any of our lists. He states he has been the local attorney without fee for the National Association for the Advancement of Colored People but to his knowledge that organization has taken no part in un-American activities.

ATTORNEYS AT LAW

PHONE: GLENDALE 5-7556

ERIE 1, PENNSYLVANIA

17 May 1960

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b7c

Federal Bureau of Investigation,
Washington, D.C.

Re: Civil Liberties Union

Gentlemen:

I have been approached by an individual acting on behalf of others to assist in the organization of a branch of The American Civil Liberties Union.

Somewhere I have gotten the impression that this organization is on Mr. Hoover's list as Unamerican, and that the organization is engaged in the defense of Communists and fellow travellers.

I would like to know if you have this organization on any of your lists, before deciding whether or not to associate myself with their work.

I have been the local Attorney, without fee, for NAACP for years, but to my knowledge, the local organization has taken no part in any Unamerican activities.

Please give me the fullest information you are permitted to give on the subject.

Thanking you for your cooperation and prompt attention, I remain,

Very truly yours,

GAM/vm

ACK,
1-Pg w/penc.
5-26-60
RDS/pw

REC-33

61-120-818

14 MAY 19 1960

EX-102

CORRESPONDENCE
57A

EXP. PROC.
34

SAC, New York

2-Original & copy

1-yellow file copy

1-61-190

May 18, 1960

Director, FBI (62-46855)

1-Section tickler

1-[redacted]

1-H. L. Edwards, 5254

1-C. L. McGowan, 5728

1-[redacted] 6221, IB

b6
b7C

**THE SUPREME COURT
AND CIVIL LIBERTIES**

By Osmond K. Fraenkel

BOOK REVIEWS

You should discreetly obtain one copy of captioned book and forward it to the Bureau by routing slip, attention Central Research Section. The book is available for \$1.50 a copy through the American Civil Liberties Union, 170 Fifth Avenue, New York 10, New York.

NOTE ON YELLOW:

Inspector H. L. Edwards, Division II, and SA C. L. McGowan, Division VI, wish a copy of the book for review. After review, the book will be placed in the Bureau Library.

61-190-
NOT RECORDED
136 MAY 20 1960

DUPLICATE YELLOW

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Belmont _____
Callahan _____
DeLoach _____
Malone _____
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Ingram _____
Gandy _____

AMB:ala

(9)

51 MAY 26 1960

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61-190

ORIGINAL FILED IN

62-46855-77

Mr. [REDACTED]

REC-75 61-190-819

May 31, 1960

b6
b7C

Mr. [REDACTED]
[REDACTED]

Loma Linda, California

Dear Mr. [REDACTED]

Your letter dated May 19, 1960, has been received, and the interest which prompted your communication is indeed appreciated.

In response to your inquiry, I must advise that the jurisdiction and responsibilities of the FBI do not extend to furnishing evaluations or comments concerning the character or integrity of any individual, publication or organization. The FBI is strictly an investigative agency of the Federal Government and, as such, does not issue clearances or nonclearances. Furthermore, information in our files is maintained as confidential and available only for official use in accordance with a regulation of the Department of Justice.

I am sure you will understand the necessity for this policy and will not infer that we do or do not have in our files the information you desire.

Sincerely yours,

MAILED 5

MAY 31 1960

COMM-FBI

John Edgar Hoover
Director

Tolson _____
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Tele. Room _____
Ingram _____
Gandy _____

WVA 31 9 51 AM '60

1 - Los Angeles (Enclosure) (See note page two)

SEE NOTE ON YELLOW, PAGE TWO

THF:kmo

(4)

MAIL ROOM

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THF
THF

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Mr. ATTENTION: SAC, LOS ANGELES

Enclosed is a copy of correspondent's communication. Bureau files contain no identifiable data concerning the correspondent.

The American Civil Liberties Union (ACLU), with headquarters in New York City, has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the ACLU to investigate the Bureau. (61-190)

NOTE ON YELLOW:

Correspondent is a Canadian living in the United States on an immigrant visa. He expresses an interest in the work of the ACLU but states that he has recently read in a newspaper that this organization is a communist front. He does not want to support the ACLU if this allegation is true. Correspondent asks if the ACLU is undesirable.

A copy of correspondent's communication was not sent to Immigration and Naturalization Service since he has not joined the ACLU and it has not been cited by the Attorney General.

[Redacted]
Loma Linda, California

May 19th, 1960.

Federal Bureau of Investigation,
Washington, D.C.

b6
b7C

Dear Sirs:

I am a Canadian living here on an Immigrant Visa and hoping to get my American Citizenship when I have lived here five years.

Recently I have become interested in the work of the American Civil Liberties Union and would like to give it my support as a member. It was stated recently in the papers that it was a "Communist front" organization so I would like to know about this, as I would not wish to jeopardize my status here in any way, nor in fact, would I wish to support an organization which is in any way subversive.

Could you kindly tell me whether you have any official stand on this matter which would serve to clear me of any subversive intent, or can you tell me that it is indeed officially considered to be undesirable?

I would sincerely appreciate your help in this matter.

Yours very truly,

[Redacted Signature]

REC-73

61-190-819
JUN 1 1960

61-190-819
CORRESPONDENCE

Clk 5-31-60
1-LA Wessel
THB: [Redacted]

5-100

May 25, 1960

REC-91

EX 109

61-190-820
Mr. Patrick Murphy ~~Malin~~
~~Executive Director~~
~~American Civil Liberties Union~~
~~170 Fifth Avenue~~
~~New York 10, New York~~

Dear Mr. Malin:

I have received your letter dated May 17, 1960, in which you request information as to the disposition of fingerprint records and photographs submitted to the FBI on individuals who are not prosecuted after arrest or acquitted at trial.

As your letter indicates, you are aware that the Identification Division of the FBI serves as a central clearinghouse for such data and is used by all law enforcement agencies for the highly desirable purpose of ascertaining whether an individual under arrest has a prior record. In fulfilling this function, our Identification Division acts in a custodial capacity in maintaining fingerprint cards and related data voluntarily submitted by law enforcement agencies.

In order that identification records may be as complete as possible, we have repeatedly urged all fingerprint contributors to furnish final dispositions for all arrests. This data is then incorporated in the record and upon request is furnished to law enforcement and governmental agencies for their official use.

In instances where an individual informs us that he was not prosecuted or was acquitted and requests that records pertaining to his arrest be removed from our files, we advise him that since we only are the custodian of the record submitted by the arresting agency any request for alteration or return of a record must emanate from the original contributor. We suggest that he discuss his problem with the agency by which he was arrested in the particular instance.

1 - Mr. C. D. DeLoach, Room 5640 Bureau (sent direct)

RCA:mhm
(4)

1960

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Mohr
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DeLoach
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McGuire
Rosen
Tamm
Trotter
W.C. Sullivan
Tele. Room
Ingram
Gandy

MAY 25 4 27 PM '60

Mr. Patrick Murphy Malin

Whenever a contributing agency requests the return of a fingerprint card or related data on an individual who is either not prosecuted or was acquitted, we delete the entry from the identification record and return the original documents to the contributor.

I trust the above information will be of assistance to you.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

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Editorial Consultant

May 17, 1960

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Mr. Mohr
Mr. Parsons
Mr. Belmont
Mr. Callahan
Mr. DeLoach
Mr. Malone
Mr. McGuire
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. W.C. Sullivan
Tele. Room
Mr. Ingram
Miss Gandy

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Washington 25, D. C.

Dear Mr. Hoover:

We are writing to inquire about the procedures of the Federal Bureau of Investigation with respect to the disposition of fingerprint records and photographs which are submitted to your office by state and local federal law enforcement officials in cases where the individuals to whom the records apply are either not prosecuted after arrest, or are acquitted at trial.

It is our understanding that state law enforcement officials regularly send fingerprint cards and mug-shots to the Federal Bureau of Investigation for the purpose of ascertaining whether the individual concerned has a prior criminal record, or for the purpose of maintaining within the Bureau a comprehensive file of criminal convictions.

These two purposes are obviously highly desirable. However, the question has arisen as to the disposition of fingerprint cards and mug-shots which are routinely filed with the Bureau subsequent to arrests when the individual under investigation is either not prosecuted or acquitted at trial. Under these circumstances, retention of these records in the Bureau's file can be used only for the purpose of maintaining a record of bare arrests. Frequently, a party arrested but neither prosecuted nor convicted, is able to have his fingerprint card and mug-shot removed from the files of the local law enforcement agency by court order or other valid means. This seems to us to be quite proper since a bare arrest is by itself not a meaningful criminal record. It also seems to us that the retention of records relating to mere arrests can frequently be prejudicial to the party concerned.

ack
5/25/60
RCA

REC-91 61-190-820
EX 109 JUN 2 1960

EXP-100
MAY 20 1960

Mr. J. Edgar Hoover

-2-

May 17, 1960

Our specific inquiry is to ask the practice followed by the Federal Bureau of Investigation with respect to fingerprint cards and mug-shots filed after arrests when there is no subsequent prosecution or an acquittal after prosecution. Under these circumstances, is it the practice of the Bureau nonetheless to retain these records in its files, assuming that no further information is received by the Bureau with respect to the disposition of the charge upon which the arrest was based? Second, what is the practice of the Bureau when it is expressly informed by the local law enforcement agency that the individual concerned was either not prosecuted or acquitted on trial? Third, what is the practice of the Bureau when it is informed by the individual concerned that he was either not prosecuted or acquitted on trial, and requests that the records pertaining to his arrest be removed from the Bureau's files? Fourth, do any local law enforcement agencies request the return of fingerprint cards and mug-shots because the individual was either not prosecuted or acquitted, and if so, what is the practice of the Bureau with respect to these requests?

Thank you for your cooperation. We shall look forward to your reply.

Sincerely yours,

Patrick Murphy Malin

Patrick Murphy Malin
Executive Director

F B I

Date: 6/4/60

Transmit the following in _____
(Type in plain text or code)Via AIRTEL AIR MAIL - REGISTERED
(Priority or Method of Mailing)

TO: DIRECTOR, FBI,

FROM: SAC, LOS ANGELES (100-3267)

RE: AMERICAN CIVIL LIBERTIES UNION
(ACLU)
IS - C

GEORGE PUTNAM on his 10:00 p.m. news cast, 6/3/60, TV Channel 11, Los Angeles, California, quoted from a 1943 California Legislative Committee report on Un-American activities, stating that 90 per cent of the activities on the part of the ACLU was in the interest of the CP. Immediately after the foregoing introductory statement, he introduced JOHN R. LECHNER, Chairman of the Americanism Committee for the 23rd District, American Legion.

Dr. LECHNER then came on the screen and in a few short sentences tagged the ACLU as the greatest threat to bulwarks of American freedom and stated that the ACLU must be unmasked. He indicated that such un-masking would begin with a meeting of the County Council of the American Legion on 6/7/60.

The foregoing for Bureau information.

2-d
3 - Bureau
1 - Los Angeles

MIB/seb
(4)

REC-78
61-190-821

5 JUN 6 1960

Approved: WLB RAB

Special Agent in Charge

Sent _____ M Per _____

59 JUN 13 1960

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: June 2, 1960

FROM : C. D. DeLoach

SUBJECT: DR. ARCHIBALD CAREY

Tolson _____
 Mohr _____
 Parsons _____
 Belmont _____
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire _____
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan _____
 Tele. Room _____
 Ingram _____
 Gandy _____

Dr. Carey called at 6 PM, June 1, 1960, from the White House. He at first stated he merely desired to chat briefly. I told him the Director was considerably embarrassed over the failure of our photographer in Chicago to take pictures of the Director and Dr. Carey's sister. Dr. Carey stated we should forget about the matter, that he was not in the least bit concerned. He stated he was in town for the purpose of having an appointment with the President June 2, 1960, and that he intended to advise the President of the great reception the Director received in Chicago. He stated the Director's humility and greatness was something he would never forget.

Dr. Carey mentioned that he and Branch Rickey come to town every month and that sometime in the next several months he and Rickey would appreciate having dinner one night with the Director and Mr. Tolson. I told him the Director would certainly like to do this, however, unfortunately for the remainder of the Summer the Director would be in travel status a considerable period of time. Therefore, Dr. Carey might desire to delay issuing this invitation until sometime nearer the end of the year. He stated he would do this.

Dr. Carey stated there was one matter of business he found necessary to bring up. He mentioned that I had talked to him a number of times in confidence and that this matter should be treated accordingly. He then proceeded to advise that Congressman James Roosevelt (D-California) had written Lawrence Speiser, Washington Director of the American Civil Liberties Union to the effect that Dr. Carey and his committee might desire to look into the policy of the employment of Negroes within the FBI. Roosevelt's letter proposed three questions: (1) Does the FBI have any Negro Agents? (2) If so, are these Negro Agents permanently employed or merely on a temporary basis? (3) How many Negro FBI Agents are employed?

I told Dr. Carey I could answer all three questions at this particular moment without referring to files in anyway whatsoever. I then

1 - Mr. Callahan

1 - Mr. Jones

CDD:ejp

(4)

REC-42

61-190

NOT RECORDED

JUL 7 1960

JUN 22 1960

JUL 7 1960

RECORDED COPY FILED IN 62-10446-1
 RECORDED COPY FILED IN 77-59135-82-30757-3

Memo DeLoach to Mohr
Re: Dr. Archibald Carey

6-2-60

advised that we very definitely did have Negro Agents and that Mr. Hoover on numerous occasions had commended these Agents for the excellent services they have performed for the FBI. I told him of the Striders in Los Angeles and reminded him I personally introduced SA [redacted] to him in Chicago. He was told that the Director has a Negro Special Agent in his office and thinks very highly of him. I further told Dr. Carey that these Negro Agents were hired on a permanent basis and there was nothing temporary about their job. He was specifically told that Mr. Hoover had always insisted that our records not be maintained according to race, creed or color and, therefore, very frankly I did not know the total number of Negro Agents but that he should certainly understand that there was no rejection of Negro personnel on the basis of discrimination; to the contrary we hire Negroes on the basis of merit and that this policy had always been true.

b6
b7c

I next told Dr. Carey that I wanted to speak to him in the strictest of confidence. He agreed. I then advised him he should be wary of any questions or programs set forth by Lawrence Speiser inasmuch as Speiser had constantly defended leading communists on the West Coast, had defended the notorious Clinton Jencks and had been a member of many communist front organizations. I told Dr. Carey that Speiser was an "egg-head" who constantly carries on a campaign against agencies who are attempting to promote the security of the United States. I added that we, of course, recognized that he (Dr. Carey) was a staunch Republican, however, that Congressman James Roosevelt ^{Democrat} apparently was attempting to gain considerable notoriety today by attacking the HCUA and other committees and agencies who desire to promote the best interest of the United States through strong security.

Dr. Carey stated he was well aware of Roosevelt's background but he was somewhat appalled about learning of Speiser's background. He stated the above answers his inquiry satisfactorily and we should forget the matter.

ACTION:

For record purposes.

gmc
6/2

V. [signature]
6/2

[signature]
6/2

F B I

Date: 6/7/60

Transmit the following in _____
(Type in plain text or code)Via AIRTEL REGISTERED MAIL
(Priority or Method of Mailing)

TO: DIRECTOR, FBI CINAL

FROM: SAC, NEWARK (100-32015)

RE: AMERICAN CIVIL LIBERTIES UNION
IS - C

On 6/7/60, when contacted by SA [redacted] who has furnished reliable information in the past, advised that on 6/6/60, he had observed an item in the "Elizabeth Daily Journal" newspaper, issue of that date, to the effect that a New Jersey Chapter of the AMERICAN CIVIL LIBERTIES UNION had been formed. The item, appearing on page 1 of the 6/6/60 edition of that paper under the caption "News Flashes" bears the dateline Newark (UPI) and announced that The AMERICAN CIVIL LIBERTIES UNION today (6/6/60) announced formation of a New Jersey chapter to combat what a spokesman called the growing pressure on civil liberties in the state.

b6
b7C
b7D

The "Newark News" of 6/6/60 under the caption "Civil Liberty Charter Due" advised that a New Jersey branch of the AMERICAN CIVIL LIBERTIES UNION will be chartered at a meeting here June 16.

PATRICK MURPHY MALIN, Executive Director of the ACLU, said the national board of directors had approved the New Jersey groups constitution and by-laws and that official affiliation would be granted at the meeting in the Continental Ballroom.

- 3 - Bureau (RM)
1 - New York (ACLU) (Info) (RM)
6 - Newark

(1 - 100-4284LL CINAL)

REC-98

(1 - [redacted])

EX-109

(1 - 100-4284-7S-1)

(1 - 100-35610 (ECLC))

DRS:emg
(10)

25 JUN 8 1960

64 JUN 14 1960

Approved: _____

Sent _____ M Per _____

cc. Brennan
cc. Wick

161-190-822
SEC. 7
CENTRAL RECORDS

NK 100-32015

The AMERICAN CIVIL LIBERTIES UNION of New Jersey is the 28th affiliate of the national civil liberties organization which this year marks its 40th anniversary. More than 1,600 of the ACLU's 50,000 members live in New Jersey.

Although various local civil liberties union groups have been set up in New Jersey in the past, MALIN said, this is the first time an organization is being formed on a statewide basis.

V NE

b6
b7c

The above is being furnished for the information of the Bureau. The Bureau will be kept advised of further developments in this matter.

F B I

Date: 6/10/60

Transmit the following in _____
(Type in plain text or code)Via AIRTEL AIR MAIL - REGISTERED
(Priority or Method of Mailing)

TO: DIRECTOR, FBI (61-190)

FROM: SAC, LOS ANGELES (100-3267)

SUBJECT: AMERICAN CIVIL LIBERTIES UNION (ACLU)
IS-C
CINAL

[redacted] has advised that EASON MONROE (subject of a Communist Index card in this office--Los Angeles file 100-42713, Bufile 100-372442) has issued a memorandum dated 6/6/60 to the "Members of the Committee for a Los Angeles Police Review Board", which [redacted] advises is an ad hoc committee of the ACLU.

This memorandum indicates that arrangements are now being made for an enlarged public meeting under the auspices of the above committee to be held Thursday evening, 6/23/60, at the Sidney Hillman Labor Center, 2501 South Hill St., Los Angeles. b7D

A meeting to plan the program for the public meeting will be held Thursday, 6/16/60, at the Los Angeles offices of the ACLU, 323 West Fifth St., Room 202, Los Angeles, California. In addition, prior to the public meeting a press conference will be called "to counter the premature blast against the Police Review Board idea, recently set off by the Police Protective League.

The memorandum also indicates that a statement has been prepared for release to the press "setting forth in sober and reasonable terms our views on the problem of police brutality and the need for public airing of citizens grievances."

- ③ - Bureau (AIR MAIL) (REGISTERED) REC-66 61-190-853
1 - San Francisco (INFO) (REGISTERED)
3 - Los Angeles (100-3267) (100-43372 - CINAL)

14 JUN 13 1960

59 JUN 17 1960

GGB:DRU

Approved: (7)

Special Agent in Charge

Sent _____ M

cc Wick
cc Brennan

CENTRAL SEARCH

bm
REC-32

61-190-824

June 29, 1960

Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
170 Fifth Avenue
New York 10, New York

Dear Mr. Malin:

I have received your letter dated June 27, 1960, with further reference to the disposition of fingerprint records and photographs submitted to the FBI.

When the original fingerprint cards or related data are returned to a contributing agency, the particular entry is deleted from our identification record and no copies of the original fingerprint card or data, which is returned, are retained in the files of the FBI.

I trust that the above information will be of assistance to you.

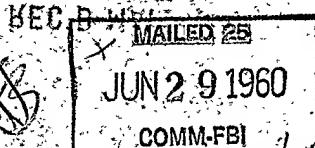
Sincerely yours,

RCA:mhm
(3)

John Edgar Hoover
Director

NOTE: Letter dated 5-17-60, from Malin inquiring as to practice followed by FBI in respect to retention of fingerprint cards of persons arrested when there was no subsequent prosecution or acquittal after prosecution. In Bureau reply of 5-25-60, he was advised that records returned to original contributing agency upon receipt of request and that specific entry was deleted from identification record. In current letter inquires if Bureau retains copy of original documents. Bufile 61-190-820.

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Arthur Pearlroth
Editorial Consultant

40th
Anniversary

June 27, 1960

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Washington 25, D. C.

Dear Mr. Hoover:

Thank you for your letter of May 25, 1960 replying to our letter of May 17, 1960, concerning disposition of fingerprint records and photographs submitted to the F. B. I.

In the closing paragraph of your letter, you stated that "Whenever a contributing agency requests the return of a fingerprint card or related data on an individual who is either not prosecuted or was acquitted, we delete the entry from the identification record and return the original documents to the contributor."

It is not clear whether under this procedure copies of the original documents returned to the contributing agencies are retained in the files of the Federal Bureau of Investigation. We would very much appreciate your comment on this point.

Sincerely yours,

Patrick Murphy Malin
Patrick Murphy Malin
Executive Director

(Signed in Mr. Malin's absence)

ack
6/29/60
RCM

REC-32

61-190-824

JUN 30 1960

EX-108

Washington Office — 1612 Eye Street, N.W., Washington 6, D.C.; Lawrence Speiser, Director; Penelope L. Wright, Executive Assistant
With organized affiliates in twenty-four states and 800 cooperating attorneys in 300 cities of 48 states

UNITED STATES

Memorandum

TO: DIRECTOR, FBI (61-190)

FROM: SAC, CHICAGO (100-20620)

DATE: July 7, 1960

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
INFORMATION CONCERNING

On April 26, 1960, the Security Unit, Chicago Police Department, furnished the Chicago Office a series of documents, which documents related to the 1960 Biennial Conference of the American Civil Liberties Union (ACLU) held at the LaSalle Hotel, Chicago, Illinois, April 21-24, 1960.

Inasmuch as this material contains considerable background information concerning the ACLU, and inasmuch as it has no investigative interest for the Chicago Office of the FBI, it is being forwarded herewith for the general interest of the Bureau and for the completion of Bureau files. No copies of this material are being retained by the Chicago Office.

These documents are as follows:

1. A two-page program of the 1960 Biennial Conference, LaSalle Hotel, Chicago, Illinois, April 21-24, 1960.
2. A single-page leaflet entitled "Directory of Meeting Rooms, ACLU 1960 Biennial Conference".
3. A two-page document entitled "Biographical Information on Speakers and Officials at 40th Anniversary Conference of the ACLU, April 21-24, 1960".
4. A three-page document entitled "Seating Plan--ACLU 40th Anniversary Dinner". This document contains the alphabetized listings of the individuals who were scheduled to attend the dinner as well as the listing of the tables where they were to be seated.

2 - Bureau (Encl. 4) (RM)
1 - Chicago

DET:1fl

(3)

59 JUL 12 1960

ENCLOSURE

CRIME RECORDS

REC-14

JUL 8 1960

1cc filed with encl.

238

37

CG 100-20620

5. A document entitled Outline of Address by Walter Millis, ACLU Board Member, Before 1960 Biennial Conference, April 24, 1960--Plenary Session on Government Investigations and Citizens' Privacy.
6. A press release for Thursday, April 21, 1960, containing the address of PALMER HOYT, Editor and Publisher of the "Denver Post", before the 40th Anniversary Dinner of the ACLU, LaSalle Hotel, Chicago, Illinois. Said address entitled "The Three-Legged Stool: Civil Liberties, Prosperity and Defense". *ILL Colo*
7. A press release for Sunday, April 24, 1960, reflecting the text of an address by WALTER MILLIS. *ILL*
8. A press release dated April 22, 1960, containing the text of an address by THEODORE W. KHEEL, President of the National Urban League.
9. A press release dated April 22, 1960, containing the text of an address by LOREN MILLER, Vice Chairman, ACLU National Committee. *ILL*
10. A two-page document containing an outline of an address by DAN LACY, ACLU Board member, entitled Plenary Session on Censorship and Freedom. *ILL*
11. A press release dated April 22, 1960, containing the text of an address by MARION A. WRIGHT, former president, Southern Regional Council member, ACLU National Committee. *U.S.A.*
12. A press release dated April 21, 1960, containing a summary of an address by PATRICK MURPHY MALIN, Executive Director, ACLU. The title of MALIN's address being "ACLU Frontiers in the 1960s". *ILL*
13. A two-page document entitled "1960 Biennial Conference Participants".

CG 100-20620

14. The April 6 issue of "Inside ACLU", self-identified as a publication for National and affiliate ACLU officials.
15. A two-page news release dated April 14, 1960, scheduled for release April 18, 1960. A press release datelined New York, April 17, 1960, which reflects the ACLU's stand on northern student picketing demonstrations in support of Southern students protesting lunch-counter racial discrimination.
16. A four-page leaflet advertising the availability of OSMOND K. FRAENKEL's book entitled "The Supreme Court and Civil Liberties".
17. The January, 1960, issue of "Civil Liberties", self-identified as a monthly publication of the ACLU.
18. The April, 1960, issue of "Civil Liberties".
19. A pamphlet published by the ACLU in honor of its 40th anniversary year, said pamphlet entitled "What is the ACLU?".

UNITED STATES GOVERNMENT

Memorandum

TO : Director, FBI

DATE: 7/27/60

FROM : *WJH* SAC, Los Angeles (44-0)

SUBJECT: CIVIL RIGHTS MATTERS
LOS ANGELES DIVISION

just
Attached hereto for the Bureau's information are two copies of a recent editorial in the Los Angeles TIMES newspaper concerning activities of the American Civil Liberties Union in this area.

encl
1-d
2 - Bureau (Encls-2) - *re letter 5/34*
1 - Los Angeles
VFL:MCR
(3)

EX 109

REC- 22

61-190-826

17 AUG 4 1960

ENCLOSURE

264

59 AUG 8 1960

U.S. DEPT. OF JUSTICE

RECEIVED

McG
SA

31

Undermining the Police Force

The American Civil Liberties Union's efforts to make law enforcement in Los Angeles subservient to special interests have been delayed rather than defeated. The shift in ACLU strategy dare not be interpreted as abandonment of its goal of imposing an "independent" police review board.

Undismayed by unanimous City Council rejection of the proposed kangaroo court, ACLU members have retreated to safer ground by setting up a "working model" board within their own organization.

The plan, according to Open Forum, the ACLU official organ, is to "demonstrate to the public and city officials the functions of an impartial agency to review complaints of police misconduct."

It would be dangerously foolish to underestimate the determination of the ACLU and its assorted allies to usurp police authority by this means. They have already succeeded in Philadelphia and are working hard to dilute law enforcement in Detroit, Minneapolis and Cincinnati.

What they propose is a five-man board with almost unlimited powers to pass judgment on police conduct. The board would function as judge, jury and prosecutor. It would, moreover, apparently have the authority to decide what type of "misconduct" should come within its jurisdiction.

No one can say that the Los Angeles Police Department is free from instances of misconduct. Our department is the best in the country but it is not perfect. Cases of mistreatment, even brutality, have occurred in the past and may occur in the future.

But that is not the point. The point is that the types of misconduct which the ACLU would take charge of are already crimes according to local, state and federal statutes. The investigation and prosecution of these crimes are not

limited to the Police Commission or department officials but are also the function of the elected city attorney and district attorney, the county grand jury and the U.S. Department of Justice.

The People's World, official Pacific Coast Communist Party paper, understandably disagrees: "Challenge the self-assured right of police to club innocent citizens at will and you've got the fight of your life on your hands."

What is actually being challenged are the established judicial and administrative processes that protect all persons from police mistreatment—and police officers from false charges.

What is actually being sought is the demoralization of an outstanding, if not ideal, police organization through a board of censors that places police officers in double jeopardy and offers a \$500 bounty for each successful complaint.

The ACLU would create a board that is responsive only to special-interest groups, not the city as a whole. Its members would be nominated not by the mayor but by political parties, political science professors and the County Commission on Human Relations, with city officials given only the choice of selecting from among the nominees. The only member representing the entire public would be the nominee of the presiding judge of the Superior Court.

In a candid moment, Atty. Henry Lopez informed a recent ACLU meeting that actually "only a small percentage of the police force is involved in misconduct," according to Open Forum. CALIF.

We would agree and state emphatically that those guilty of such misconduct deserve prompt and severe punishment. But to handcuff the department and give the keys to the American Civil Liberties Union is to assure far worse abuse and far less effective police protection.

LOS
ANGELES
TIMES

NICK B.
WILLIAMS,
EDITOR.

TUESDAY
MORNING,
JULY 19,
1960.

Best in
the Nation

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI (61-190;100-) DATE: 8/1/60

FROM : *W* SAC, Philadelphia (100-1086; 100-44520)SUBJECT: AMERICAN CIVIL LIBERTIES UNION
INFORMATION CONCERNING
(INTERNAL SECURITY)

REGISTERED MAIL

Mr. Tolson	_____
Mr. Mohr	_____
Mr. Parsons	_____
Mr. Belmont	_____
Mr. DeLoach	_____
Mr. Malone	_____
Mr. McGuire	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Trotter	_____
Mr. W.C. Sullivan	_____
Tele. Room	_____
Mr. Ingram	_____
Miss Gandy	_____

SM-C

b6
b7c

On 7/29/60, a letter dated 7/28/60, was received from SPENCER COXE, Executive Director, Greater Philadelphia Chapter, AMERICAN CIVIL LIBERTIES UNION, stating he and HENRY W. SAWYER III, President of the Chapter, would like to call on me some afternoon the following week. The letter stated [redacted] had talked to them about an "interrogation" by two agents on 7/19/60. The letter stated this "interrogation", as reported to them, raised questions in their minds which they would like to discuss.

Immediately upon receipt of his letter, I contacted COXE by telephone and, at his request, I arranged to talk to him and SAWYER at 4:30 P.M. Thursday, 8/4/60.

The interview in question was conducted by SAs [redacted] and [redacted] with Bureau authority, and the results of the interview were furnished to the Bureau by letter dated 7/25/60, in the case file.

No specific allegations have been made by COXE. I am certain any allegation he may make on 8/4/60 can be met satisfactorily. Affidavits will be obtained from the agents and the Bureau will be promptly advised.

4 - Bureau (61-190; 100-) REGISTERED MAIL
2 - Philadelphia (100-1986; 100-44520)

FCB:VFH
(6)

15 AUG 9 1960

244,376
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8/20/84 BY 9145 ucd-lmw

59 AUG 10 1960

30 DIRECTOR

UNRECORDED COPY FILED IN 100-431968-37

1 - Mr. [redacted]

August 5, 1960

b6
b7C

REC-23

EX-107

Mrs. [redacted]

Van Nuys, California

Dear Mrs. [redacted]

Your letter dated July 26, 1960, with its enclosure, has been received, and the interest which prompted your communication is indeed appreciated.

In response to your inquiry, I must advise that the jurisdiction and responsibilities of the FBI do not extend to furnishing evaluations or comments concerning the character or integrity of any individual, publication or organization. The FBI is strictly an investigative agency of the Federal Government and, as such, does not issue clearances or nonclearances.

Sincerely yours,

John Edgar Hoover
Director

1 - Los Angeles (enclosure)

ATTENTION: SAC, LOS ANGELES

Enclosed is a copy of correspondent's communication. Bufiles contain no identifiable information concerning the correspondent.

NOTE TO LOS ANGELES, CONTINUED, PAGE TWO

RDS:pw (4) SEE NOTE ON YELLOW, PAGE TWO

MAILED 20
AUG 5 1960
COMM-FBI

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

57 AUG 15 1960

TELETYPE UNIT

Mrs. [REDACTED]

b6
b7C

NOTE TO LOS ANGELES, CONTINUED

The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the American Civil Liberties Union to investigate the Bureau. (61-190)

Correspondent enclosed a self-addressed, stamped envelope.

NOTE ON YELLOW:

Correspondent's only inquiry is whether the American Civil Liberties Union is subversive. If it is not, she desires to appeal to it for help. She then discusses her problem which involves a proposed petition of a taxpayers council to require certain petroleum refineries to curtail air pollution in the community.

Self-addressed, stamped envelope submitted by the correspondent being used in reply.

TRUE COPY

b6
b7C

[REDACTED]
Van Nuys, Calif
July 26, 1960

J. Edgar Hoover,
Chief of F.B.I.
Washington, D. C.

Dear Chief Hoover,

Is The Civil Liberties Union subversive? If not, I wish to appeal to it for help in the following situation:

When So. Calif. Taxpayers Council submitted a tentative draft of its proposed initiative petition, the petition was challenged because of Section 1900 in the Calif. Elections Code, 1960 edition, Ordinances, Chapter 4, District Election, Article I, Initiative. In this section, there are five instances where "the provisions of this article shall not apply," The third one reads "to a district formed under a law which does not provide for action by ordinance".

Aforesaid initiative petition by So. Calif. Taxpayers Council would require our local oil companies to refine further their petroleum so as to cut down on amount of smog, when the petition was challenged we were told that our Air Pollution Control District was formed under a law which provides for action by rules, not by ordinance!

I think that this is in violation of the U.S. Bill of Rights. Surely we do not lose the right of petition for redress of grievances just because we live in a "smog district"! We need the help of a strong sponsoring organization but do not want to get mixed up with a subversive one.

Sincerely,

/s/ Mrs. [REDACTED]

TRUE COPY

[Redacted]

b6
b7c

Van Nuys, Calif
July 26, 1960

J. Edgar Hoover,
Chief of F. B. I.
Washington, D. C.

Dear Chief Hoover,

Is The Civil Liberties Union subversive? If not, I wish to appeal to it for help in the following situation:

When So. Calif. Taxpayers Council submitted a tentative draft of its proposed initiative petition, the petition was challenged because of Section 1900 in the Calif Elections Code, 1960 edition, Ordinances, Chapters District Election, Article I, Initiative. In this section, there are five instances where "the provisions of this article shall not apply." The third one reads "to a district formed under a law which does not provide for action by ordinance".

Aforesaid initiative petition by So. Calif. Taxpayers Council would require our local oil companies to refine further their petroleum so as to cut down on amount of smog. When the petition was challenged we were told that our Air Pollution Control District was formed under a law which provides for action by rules, not by ordinance. 61-190-828

I think that this is ^{EX-107} violation of the U.S. Bill of Rights. Surely we do not lose the right of petition for redress of grievances just because we live in a "smog district" ~~the need~~ the help of a strong sponsor ^{July 9 1960} organization but do not want to get mixed up with a subversive one. REC-23

ACK
1-14-61
85-602
DJK/pss

CORRESPONDENT

75%

REC-45

1 - Mr. [redacted]

61-190-829

August 5, 1960

b6
b7C

Mr. [redacted]

Anaheim, California

Dear Mr. [redacted]

Your letter dated July 27, 1960, with its enclosure, has been received, and the interest which prompted your communication is appreciated.

In response to your inquiries, I must advise that the FBI does not prepare or maintain a list of organizations such as you desire. The Committee on Un-American Activities, United States House of Representatives, however, has prepared and released a pamphlet entitled "Guide to Subversive Organizations and Publications" which may be of interest to you. This pamphlet may be obtained for thirty-five cents per copy by communicating with the Superintendent of Documents, United States Government Printing Office, Corner North Capitol and H Streets, Northwest, Washington 25, D. C.

With respect to your inquiry concerning the identity of endorsers of the American Civil Liberties Union, it is suggested that you may desire to request such information directly from the American Civil Liberties Union whose address is 170 Fifth Avenue, New York 10, New York.

Sincerely yours,

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 3-26-99 BY 60267NLS/EP/BS

#442365

John Edgar Hoover
Director

FBI Los Angeles (enclosure)

SEE NOTE TO LOS ANGELES, PAGE TWO

RDS:pw (4) SEE NOTE, ON YELLOW, PAGE TWO

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

MAIL ROOM ☐

TELETYPE UNIT ☐

5 AUG 11 1960

b6
b7C

Mr.

ATTENTION: SAC, LOS ANGELES

Enclosed is a copy of correspondent's communication. Bufiles contain no identifiable data concerning the correspondent or Joel S. Dvorman.

The correspondent enclosed a page from the July 27, 1960, issue of the "Anaheim Bulletin" which contained a letter to the editor from one Joel S. Dvorman, 10952 Endry Street, Anaheim, California. Dvorman indicated he was an educator and school trustee and had received some unwarranted publicity for his support of the American Civil Liberties Union. He defended this organization and his association with it and stated that upon request, the American Civil Liberties Union would furnish copies of endorsements of the organization from such persons as President Eisenhower, Adlai Stevenson and General Douglas MacArthur.

The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the American Civil Liberties Union to investigate the Bureau. (61-190)

NOTE ON YELLOW:

Correspondent requested the Bureau furnish him a list of organizations considered subversive by the Government. In referring to the enclosure, he requested to be advised whether Stevenson, MacArthur and President Eisenhower have endorsed the American Civil Liberties Union.

TRUE COPY

Via Air Mail * Correo Aereo

in flight

AMERICAN AIRLINES

7/27/60

Federal Bureau of Investigation,
Washington D.C.

Dear Sir--

Would you kindly send me a list of all organizations considered subversive by the United States government.

I am enclosing a letter appearing in our local paper written by a member of our local school board, Mr. Joel S. Dvorman.

Is it true that President Eisenhower, Adlai Stevenson and Douglas MacArthur have given written endorsements of the American Civil Liberties Union?

I would appreciate any information regard A.C.L.U. as soon as possible.

Sincerely

/s/

[Redacted Signature]

b6
b7C

[Redacted Address]
Anaheim
Calif.

TRUE COPY

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-26-99 BY 60267 NLS/EP/BS

VIA AIR MAIL • CORREO AEREO

in flight  AMERICAN AIRLINES
7/27/60

Federal Bureau of Investigation
Washington D.C.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 8-26-99 BY 60267NLS/EP/BS

Dear Sir —

Should you kindly send me
a list of all organizations
considered subversive by the
United States government.

I am enclosing a letter
appearing in our local
paper written by a member
of our local school board,
Mr. Joel S. Brownman.

Is it true that President
Eisenhower, Adlai Stevenson
and Douglas MacArthur
have given written endorsement
of the American Civil Liberties
Union?

ENCLOSURE ATTACHED

ACK. 8-5-60
1- LA w/enc RDS/pw.

5-101
CORRESPONDENCE

AMERICAN CIVIL LIBERTIES UNION
ENCLOSURE

in flight  **VIA AIR MAIL • CORREO AEREO**
AMERICAN AIRLINES

I would appreciate
any information regard
A. J. L. U. as soon as
possible.

Sincerely

2E

[Redacted]

[Redacted]

b6
b7C

Anaheim
Calif.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 05-26-2006 BY 60327 NLS/EP/AS

U.S.S.A. 12

Letters TO THE EDITOR

Dear Sir:

As an educator and school trustee whose support of the American Civil Liberties Union, has recently resulted in some unwarranted personal publicity, I would be grateful for an opportunity to clarify my position.

In these uneasy times, it would be wise to remind ourselves of certain fundamental truths concerning where the strength of our democracy actually lies. Certainly it does not lie in an unreasonable fear of hearing views which may not enjoy wide acceptance. Nor does it lie in impugning the loyalty and personal integrity of those who sincerely believe that full and free discussion is the healthiest activity in which Americans can engage.

Have we become so frightened, so lacking in faith in American ideals that we feel we will discard them if we dare to closely examine controversial issues? There are those among us, I am sorry to learn, who, because they do lack this faith, are unwittingly paying public tribute to the op-

peal of communism. . . a tribute which is hardly deserved.

The A. C. L. U. wishes to attract discerning people to its membership roll. It does not relish blind support any more than blind opposition. Recognizing, however, that many citizens, before passing judgment, place heavy reliance on the stated opinions of men of prominence, the organization is pleased to make available, upon request, copies of written endorsements received from such personages as President Eisenhower, Adlai Stevenson, and Douglas MacArthur, to mention only a few.

In closing, I would make the simple plea that in the interest of truth and decency, an objective appraisal of the facts take place before it is decided to publicly pillory a human being via letters-to-the-editor and a subsequent anonymous distribution of reprints of those letters in the local community.

Respectfully yours,
Joel S. Dorman
10632 Eudry St.
Anaheim, Calif.

is serious, contemplative and is an original thinker. The other half is a pleasure-loving, care-free and gay person. You have a variety of interests and may tend to scatter your energies too widely. You can do so many things better than the average person that you find it a bore to work hard, concentrating on a single objective for too long a time.

It is likely that you will have an early success and this could go to your head! Be sensible and follow up your initial triumph with another, and another, and another — until the continual procession of successes indicates to the world that you have a solid career in hand. Then will be time enough to take time off to relax. Your road to success is likely to be an uphill one, but if you persevere, you will achieve the goal you most desire.

Among those born of this date are: Leo Durocher, baseball manager; Anton Dolin, ballet dancer; Amory Houghton, diplomat and philanthropist; Abraham Henry Hommel, noted criminal defense attorney; Bruce Blivin, editor and author.

To find what the stars have in store for you tomorrow, select your birthday star and read the corresponding paragraph. Let your birthday star be your daily guide.

Thursday, July 23

LEO (July 24-Aug. 23) — Take a calculated risk to better your position in life. Chances are that you will succeed.

VIRGO (Aug. 24-Sept. 23) — If you are really smart, you can make spectacular gains today. Play everything just right!

LIBRA (Sept. 24-Oct. 23) — There are some exceptional opportunities being offered to those who work conscientiously today.

SCORPIO (Oct. 24-Nov. 23) — Take that calculated risk to win special profits. Play your hand well, and you win!

SAGITTARIUS (Nov. 23-Dec. 22) — An active social contact might bring about an especially good business result.

CAPRICORN (Dec. 23-Jan. 20) — Combine business and pleasure and your contacts with others will prove highly rewarding.

AQUARIUS (Jan. 21-Feb. 19) — There are exceptional opportunities for those with enterprise and initiative.

PISCES (Feb. 20-Mar. 20) — Finances that involve a business or a marriage partner are likely to be the most rewarding.

ARIES (Mar. 21-Apr. 20) — A very special day to fine results if you get the full cooperation of others.

Postcard

by Stan Delaplano

THE CANDIDATE WENT THATAWAY

We caught a little of the political convention on a borrowed TV. TV does not come around the corner of our mountain—and all we get is a squawk and a blur.

During conventions and fights and baseball season, we are the soul of neighborhoods.

"Just thought we'd drop in and say hello. How's the TV going? Any beer in the icebox?"

During the long speeches, we flipped the dial around looking for a Western. All the standard Westerns were off the air.

That is something both parties overlooked completely.

The most logical choice for President is not a golfer. Not a man who's kind to dogs or takes long walks or catches fish.

The man we really want for president is the Sheriff.

"O bury me not on the lone prairie." The man I envision for President is long, lean and lank and has only two expressions: a tight jaw look or a shy smile.

"He can make three statements:

"Yup."

"Nope."

"I reckon maybe."

He does not drink (Takes care of the dry vote.) But he does not care if the rest of you want to poison your carcasses. (The wet vote.)

He does not kiss ladies. (No problem there of a First Lady.)

But he is polite to ladies. (Pardon me, ma'am, you dropped your arvil.")

He is against rustlers. (Takes care of the farm problem and parity.)

He is for the Good Guys and against the Bad Guys. (Takes care of Russia!)

He tells the truth. (Will confuse Congress.)

A man who would not vote for the Sheriff is a low-down varmint.

These are things the polls do not tell you. Indications not indicated by Trendex.

When the lady calls you during the prime evening and says: "This is the Viewers' Poll. What program are you watching?"

The question should be: "What program would you LIKE to be watching?"

We would answer honestly: "The Sheriff!"

All over our neighborhood during the conventions, neighbors were flipping the remote controls. Fumbling among the channels for the Man with the Star.

"As I was walkin' the streets of Laredo." A good deal of political bickering has been going on among candidates and would-be candidates.

Telegrams went around: "The Honorable Senator invites his distinguished colleague to debate..."

All the meetings were mighty friendly. Each candidate listened to his opponent. And he clapped for him.

It was civilized. But was it what we yearned for?

The Sheriff would not clap. He would not even listen. He would just stand there, lankylike. His eyes a-boring into the other feller's. His arms a little bit crooked up and his whole body like spring steel. The candidate declares:

"And in conclusion, let us take up the matter of Federal aid to schools..."

The Sheriff leaves:

"I recognize yuh now! Yore the yaller coyote who rustled the school 'warm's spectacles. Draw!"

THAT is a candidate. Every whichaway.

Distributed by The McNaught Syndicate, Inc.

The Cold War continues to get warmer and the United States and the free world continue to lose.

We've Been Duped

"Communists act like Communists." Congressman Judd emphasized. "But we continue to hope that they are going to start acting like capitalists and that if we continue to offer them concessions out of which they can make gains, they will finally fall for it. But they don't. Then some of us think they're nationalists. . . so give them the things that should satisfy them as Russians and get them to relax. But they don't operate in terms of national interest either. They're an international conspiracy" — just as the literature of Communism says they are.

"And then," continued Dr. Judd, "we think that they must be humanitarians. They are not humanitarians. Their objective is not good relations. Their objective is victory. They are Communists, and this is their nature."

The Communist Cancer

"A cancer is bad because of the way it grows — the lawless way in which it encroaches on tissues that don't belong to it. We don't say, 'Oh, it's down in the

age was extensive to prosper in business. How can I learn how much I will draw from social security?"

A: Contact your nearest social security office for a free booklet which explains the various amounts of benefits payable based on credited earnings. If you would like a statement of the amount credited to your social security account, that office can prepare a request for you which you may send to the social security accounting headquarters. The Santa Ana office is located at 1517 N. Main St.

Q: At the time I became entitled to social security benefits I was not working and did not expect to return to work; however, I have recently been offered a job that pays \$150 a month. When should I report to the social security office?

A: After you have accepted the job and it appears you will earn in excess of \$1,200 for the year you should notify the social security office. In this way your benefits will be withheld while you are working. When you are no longer working your payments can be resumed by again notifying the social security office.

CROSSWORD PUZZLE

Answer to Yesterday's Puzzle

ACROSS

1-Alan's nickname
4-Cooled lava
6-Bishop's hat
11-Challenging
13-Vegetable (pl.)
15-Roman gods
16-King of beasts (pl.)
18-Portion of medicine
19-Music as written
21-Spoken
22-Friar's measure
23-Operator
25-Beast
26-Dramatic
27-Vergence
28-Spanish article
29-Compass point
30-Algonquian Indian
33-Weight of India
35-Year
36-Symbol for tantalum
41-Period of time
43-Character in "Othello"
45-Bitter vetch
47-Cuts of meat
50-Ferrous
52-Narrate
53-Dance step
55-Single item
56-Country of Europe
60-Brother of Odin
61-Vegetable
62-More timid
63-Start
64-Indefinite article
67-Native metal

DOWN

1-Traile
2-Tempt
3-Treutonic deity
4-Negative ion
5-Greek marketplace
6-Arabs
7-Preposition
8-Rites and fall of ocean
9-Compartments of house
10-Abstract being
12-Predix: not
14-Compass point
17-Skoda
20-Danish land division
24-The camera
25-Female ruff
27-Wampum
28-Singing voice
29-Poker alike
30-Approach
32-Court order
34-Part of circle
37-Wariness
40-Let it stand
41-Snake
46-Group of rooms
48-South American
49-Girl's name
51-Male deer
54-Declare
55-Withered
56-Above
57-Head (slang)
58-Old person
62-Note of scale
64-Knockout (abbr.)

11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70

Distr. by United Feature Syndicate, Inc. 27

Strange as It Seems

By Elsie Hix

ALMOST A MILLION SPECIES OF INSECTS HAVE BEEN CLASSIFIED AND SCIENTISTS BELIEVE THERE ARE 10 TIMES THAT MANY MORE

THE GROUND SQUIRREL BREATHE 187 TIMES A MINUTE NORMALLY—BUT ONLY 1 TO 4 TIMES WHEN HIBERNATING

A SPECIAL CONCERT OF BELL MUSIC—THE FIRST OF ITS KIND EVER GIVEN IN WHICH RINGERS PULLED THE ROPES TO LARGE BELLS, THE CLAPPERS WEIGHING UP TO 1,000 POUNDS, TO SYNCHRONIZE WITH THE BAIRD CARILLON KEYBOARD

—Univ. of Michigan, June 3, 1960—

Director, FBI (61-190; 100-

8/5/60

SAC, Philadelphia (100-1086; 100-44520)

AMERICAN CIVIL LIBERTIES UNION
INFORMATION CONCERNING (IS)

[Redacted]

b6
b7c

(OO - Philadelphia)

Remylet 8/1/60.

On 8/4/60, HENRY W. SAWYER III, President, Greater Philadelphia Branch, American Civil Liberties Union, and SPENCER COXE, Executive Director of the same organization, appeared at the Philadelphia Office as previously arranged.

SAWYER stated they were not particularly concerned with this case but were using it as an opportunity to meet me and present their views regarding FBI interviews.

SAWYER, who did most of the talking, said they did not question our right to investigate subversive activities or to conduct interviews in the course of investigations. He said they were concerned that perhaps in these interviews, FBI agents might tend to try "to persuade" rather than investigate. He said he felt there is a fine line between the two and that if agents went over this line as a pattern, this might tend to put the FBI in the position of political rather than investigative activity.

I assured these gentlemen that the function of the FBI remained investigative as it always has been and that it is a firm and unwavering policy of the FBI to avoid any actual political activity or anything that could be construed as appearing to be such. Both of these gentlemen appeared to be satisfied and indicated that their primary purpose was to get this assurance from me as they had from my predecessor as SAC of this office.

EX 109

REC-39

61-190-830

AUG 18 1960

4 - Bureau (Enc. 4); (61-190; 100-
2 - Philadelphia (100-1086; 100-44520)

FAP:VPH
(6)

AUG 23 1960

ORIGINAL FILED IN 67-
Chas. Sawyer. Wigglesworth 75

With regard to the case of [redacted] they advised [redacted] had discussed his interview which took place on 7/19/60 with COXE and from his account of the interview, COXE thought that perhaps there had been some tendency to try to persuade [redacted] to disassociate himself from the Socialist Youth Union and the Young Socialist Alliance. COXE said he drew this conclusion from allegations [redacted] had made that the agents had said the following things during the interview:

- 1) You should go to college;
- 2) People in these groups are social misfits;
- 3) We won't come back unless you join one of these groups;
- 4) Agents referred to themselves as political police.

b6
b7C

I specifically denied that any one of these four statements had been made by the agents. I informed these gentlemen that the investigation was a proper investigation within the FBI jurisdiction and that the interview was properly conducted.

These gentlemen appeared satisfied that the Bureau had acted properly in this case. I assured them that if allegations are made that any improper action has been taken on the part of the FBI, I would welcome their coming to this office and informing me of the allegations.

SAWYER stated that an allegation against the FBI coming to their attention is an extremely rare occurrence and this fact causes him to believe that the FBI generally acts properly within the scope of its legitimate activities.

The Bureau's attention is directed to Philadelphia letter of 7/25/60, captioned [redacted] SM-C", in which the results of the interview conducted on 7/19/60 by SAs [redacted] and [redacted] are set out. There are enclosed herewith two copies each of affidavits executed by SAs [redacted] and [redacted]

In view of the affidavits submitted by these agents, it appears that their actions in handling this interview were proper.

1 - Mr. [redacted]

August 18, 1960

REC-52

61-190-

b6
b7C

Mr. [redacted]
[redacted]
Corona, New York

Dear Mr. [redacted]

Your letter dated August 10, 1960, has been received, and the interest which prompted your communication is indeed appreciated.

In response to your inquiry, I must advise that the jurisdiction and responsibilities of the FBI do not extend to furnishing evaluations or comments concerning the character or integrity of any individual, publication or organization. The FBI is strictly an investigative agency of the Federal Government and, as such, does not issue clearances or nonclearances. I am sure you will understand the necessity for this policy and will not infer that we do or do not have in our files the information you desire.

For your information, the FBI does not prepare or maintain a list of organizations such as you desire. The Committee on Un-American Activities, United States House of Representatives, however, has prepared and released a pamphlet entitled "Guide to Subversive Organizations and Publications" which may be of interest to you. This pamphlet may be obtained for thirty-five cents per copy by communicating with the Superintendent of Documents, United States Government Printing Office, Corner North Capitol and H Streets, Northwest, Washington 25, D. C.

Sincerely yours,

John Edgar Hoover
Director

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

MAILED 20

AUG 18 1960

COMM-FBI

59 - New York (enclosure)

SEE NOTE TO NEW YORK, PAGE TWO

51 AUG 25 1960

SEE NOTE ON YELLOW, PAGE TWO

REC'D

MAIL ROOM

TELETYPE UNIT

b6
b7C

Mr.

ATTENTION: SAC, NEW YORK

Enclosed is a copy of correspondent's communication. Bufiles contain no identifiable data concerning the correspondent.

The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities, and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the American Civil Liberties Union to investigate the Bureau. (61-190)

NOTE ON YELLOW:

Correspondent states he would be interested in learning whether the Civil Liberties Union is an approved organization. He also asked if there is a list of subversive or questionable organizations.

TELEPHONE: ILLINOIS 8-4352

NDT NETWORK
ENTRIES

CORONA, N. Y. Aug. 10, 1960

b6
b7C

Federal Bureau of Investigation
Washington 25, D.C.

Gentlemen:

AMERICAN

We would be interested in learning whether the Civil Liberties Union is an approved organization, and whether there is available a list of subversive or questionable organizations.

Thank you,

Yours very truly,

REC-52

61-190-2

18 AUG 22 1960

*ACK
NY office
8-18-60
TAF/pw*

SEP 11 1960

SECTION 100-10000

181
SEP 15 2 40 PM '60
CORRESPONDENCE
57A

September 12, 1960

REC-78
101-190-832

Mr. [REDACTED]

b6
b7C

Miami Beach, Florida

Dear Mr. [REDACTED]

Your letter of September 2, 1960, has been received, and the interest which prompted you to write is appreciated.

Although I would like to be of service, I must point out that the files of this Bureau are confidential and are available for official use only. Therefore, I am unable to answer your inquiry, and we do not have any material regarding this organization which is available for distribution. I am, however, enclosing some literature pertaining to the subject of communism which may be of interest.

Sincerely yours,

John Edgar Hoover
Director

File
51
Wormy

Enclosures (4)

Communist Illusion and Democratic Reality
3-1-60 LEB Introduction & 17th National Convention, Communist Party
Expose of Soviet Espionage
Communist Target--Youth

NOTE: No record Bufiles identifiable with [REDACTED] The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The LA Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC letter 58-52 instructed the field to advise the Bureau of any action by the ACLU to investigate the Bureau.

RWE:ms/jab/jab(3)

MAIL ROOM ☐ TELETYPE UNIT ☐

Wormy *DEM* *1/100-1/6* *12*

MAILED 25
SEP 12 1960
COMM-FBI

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Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____



b6
b7C

SEPTEMBER 2, 1960

FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C.

GENTLEMEN:

IF YOU HAVE ANY LITERATURE THAT WILL CONNECT
THE AMERICAN CIVIL LIBERTIES UNION WITH THE
COMMUNISTIC PARTY OR AT LEAST "LEFT-WING"
ORGANIZATIONS, I WILL APPRECIATE YOUR SENDING
ME THIS LITERATURE OR IF THERE IS A CHARGE FOR
SAME, ADVISE ME HOW MUCH IT IS, SO I CAN SEND
FOR IT.

VERY TRULY YOURS,



KBB/LGB

REC-78

61-190-832

13 SEP 13 1960

CORRESPONDENCE

nmh:
ack 9-12-60
RWE/elw/ms

REC-29

61-190-833

September 15, 1960

EX 109

[Redacted]
[Redacted]
Anaheim, California

b6
b7C

Dear Mrs. [Redacted]

Your letter dated September 8, 1960, has been received, and I want to thank you sincerely for your kind expression of confidence in the work being done by the FBI.

In response to your request, I am enclosing material currently available for distribution by the FBI on the subject of communism. Additional copies of these reprints can be sent you, if desired.

Although I would like to be of service, I am unable to answer your other inquiry since it does not relate to any matter within the scope of this Bureau's authority.

Your interest in desiring to help combat the growing menace of communism is very much appreciated, and if you have information at any time which you believe is indicative of subversive activities, please do not hesitate to contact the representatives of our office located at 1340 West 6th Street, Los Angeles 17, California.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director



Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

Enclosures (5)
(SEE NEXT PAGE)

1 - Los Angeles - Enclosure

Attention: SAC. Correspondent is not identifiable in Bufiles.

NOTE: Nothing derogatory in Bufiles re Dr. Fred Schwarz and his Anti-Communism Crusade. The Bureau has not investigated the American Civil Liberties Union and cordial correspondence has been had with certain of its officials.

SEP 15 3 24 PM '60

READING ROOM

61 SEP 21 1960

TELETYPE UNIT

(4)

Enclosures (5)

What You Can Do To Fight Communism

God And Country Or Communism?

3/60 LEB Introduction & 17th Convention CP, USA

Communist Target--Youth

Expose of Soviet Espionage

TRUE COPY

Sept. 8, 1960

Anaheim, Calif.

Dear Mr. Hoover,

May we say that we are most grateful for your bureau of investigation and the facts which have been revealed of anti-American activity in our country.

b6
b7C

In July it was brot to our attention that one of our school board members had a meeting in his home where people were invited to hear "the other side of the question" by Mr. [redacted] (already cited by your bureau.)

We, who will not tolerate Communist cell meetings by our public officials are seeking for ways to get this man out of office. (With 6 of the other 7 speaking in his behalf it will be difficult.)

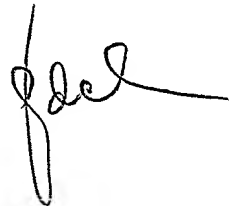
Do you have some literature which states for a fact that the Communist goal is to have complete control of America by 1972? We (some of us) have been presented this challenge by Dr. Fred Swartz, of the Anti-Communism Crusade.

Also, please tell me how this man could show us a letter from Eisenhower--signed by him officially--addressed to the Am. Civil Liberties Union which compliments them on their good work?

I would appreciate any literature which will help us to put Communists on the spot and help us in this crusade against them.

Sincerely

/s/ (Mrs.) [redacted]



ack 9/15/60
DCL: njs
nmel 2 TC's
9/14/60
np

us in this crusade
against them.

Sincerely

(Mrs.)



b6

b7c

Sept. 8, 1960

Anaheim, Calif.

Dear Mr. Hoover,

May we say that
we are most grateful
for your bureau of
investigation and
the facts which have
been revealed of
anti-American activity
in our country. 61-190-833

ack 9/15/60 EX 109

DECL 11/15/60

2 7/15/60

9/14/60

and

REC-29

In July it was
first to our attention
that one of our school

2 SEP 1960

CORRESPONDENCE

2.

board members had a meeting in his home after people were invited to hear "the other side of the question" by Mr. [redacted] (already cited by your bureau.)

b6

b7C

We who will not tolerate Communist cell meetings by our public officials are seeking for ways to get this man out of office. (With 6 of the other 7 speaking in his behalf it will be difficult.)

Do you have some literature which states for a fact that the Communist goal is to

have complete control of America by 1972? We have been presented this challenge by Dr. Fred Schwartz of the Anti-Communism Crusade. Also, please tell me how this man could show us a letter from Eisenhower - signed by him officially - addressed to the Am. Civil Liberties Union which compliments them on their good work?

I would appreciate any literature which will help us to put Communists on the spot and help

ORANGE, CALIFORNIA

KELlogg 8-3902

03813

September 10, 1960

b6
b7c

Dear Sir,

I am particularly interested in receiving some accurate material regarding the American Civil Liberties Union and the Emergency American Civil Liberties Union.

I have been asked to attend their meetings. It has been received and condemned by several friends. I do not wish to be ignorant of this group.

I am keenly disappointed in the average citizen's lack of knowledge (I, included) regarding Communism in the United States.

If you can direct me to some good sources, for accurate materials, I would be very grateful, to you, and for your helpful direction.

EX-105 REC-51

4-190-834

SEP 23 1960

Sincerely yours,

[Redacted Signature]

nmml
ack 9-22-60
LWE/1/1/1/jka

1+c
9-21-60
jka

CORRECT
EVIDENCE

UNITED STATES

Memorandum

TO : Mr. A. H. Belmont

DATE: September 14, 1960

FROM : Mr. F. J. Baumgardner

SUBJECT: SUBVERSIVE ACTIVITIES CONTROL BOARD v.
COMMUNIST PARTY, USA
INTERNAL SECURITY ACT OF 1950

Tolson	_____
Mohr	_____
Parsons	_____
Belmont	_____
Callahan	_____
DeLoach	_____
Malone	_____
McGuire	_____
Rosen	_____
Tamm	_____
Trotter	_____
W.C. Sullivan	_____
Tele. Room	_____
Ingram	_____
Gandy	_____

The order of the Subversive Activities Control Board (SACB) that the Communist Party, USA (CPUSA), register with the Attorney General as a communist action organization within the purview of the Internal Security Act of 1950, is presently pending before the Supreme Court and is scheduled for oral argument on October 10, 1960.

Realizing the tremendous blow to its operations should the Supreme Court uphold this order, the CPUSA has been conducting a widespread campaign aimed at having various organizations and prominent persons file or at least lend their signatures to briefs as "Friends of the Court," urging the Supreme Court to strike down the order of the SACB. The first such brief was filed on August 24, 1960, by the American Civil Liberties Union (ACLU). The brief, prepared by Nanette Dembitz and Rowland Watts of the ACLU, describes the ACLU as "a nationwide nonpartisan organization devoted solely to the protection and advancement of the individual liberties fundamental to the Democratic way of life" and claims that the ACLU is primarily concerned with the CP case because the ACLU believes the free exchange of political opinion and the freedom to associate for the purpose of political expression, both of which are protected from Government interference by the Constitution, are drastically curtailed by the Internal Security Act of 1950 and the current order of the SACB.

The brief is based solely upon the claim that the registration provision of the Internal Security Act of 1950 violates the First Amendment to the Constitution because it interferes with expression of opinion that is far removed from incitement to violence or any other danger that Congress has power to prevent.

Enclosure

EBR:pwf djd

1 - Mr. DeLoach
1 - Mr. Belmont
1 - Mr. Baumgardner
1 - Mr. Kleinkauf
1 - Mr. Reddy

NOT RECORDED
170 SEP 21 1960 7 SEP 21 1960

51 SEP 26 1960

ORIGINAL COPY FILED IN

Memorandum for Mr. Belmont
Re: Subversive Activities Control Board v.
Communist Party, USA

OBSERVATIONS:

There is no mention of the FBI in this brief and it is typical of the action of the ACLU in injecting itself into issues where it feels the civil rights or liberties of an individual have been violated regardless of the political or ideological beliefs of the individual involved. Although the ACLU professes to be anticommunist, it has in the past, as it has in this case, afforded aid and comfort to the cause of communism in the United States.

The ACLU has not been investigated by the Bureau. The Los Angeles chapter of the ACLU has circulated a petition calling for abolition of the House Committee on Un-American Activities and, in 1958, the Seattle chapter recommended an investigation of the FBI.

ACTION:

None. For information. A Photostat of the brief is attached.

CRB
9/15

WBR
JWB
V
JWB

September 22, 1960

EX-105

REC-51

61-190-834

b6
b7C

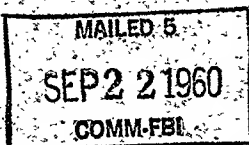


Orange, California

Dear Mr. 

Your letter of September 10, 1960, has been received, and the interest which prompted you to write is appreciated.

In response to your inquiry, the FBI is strictly an investigative agency of the Federal Government and does not furnish evaluations or comments concerning the character or integrity of any individual, publication or organization. For this reason, I am unable to be of assistance to you. In view of your concern regarding communism, I am enclosing some material pertaining to that subject which may be of interest.



Sincerely yours,

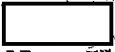
JPM review

John Edgar Hoover
Director

RWB
Sum
GBF
RM
Ad

Enclosures (5)

17th National Convention & Introduction 3-60 LEB, CP USA
Communist Illusion and Democratic Reality
One Nation's Response to Communism
Communist Target--Youth
Expose of Soviet Espionage

NOTE: No record Bufiles identifiable with  The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The Los Angeles Chapter has (Note cont. next page)

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

RWE:jab/jka (3)
50 SEP 28 1960
MAIL ROOM TELETYPE UNIT

Note continued.

circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC Letter 58-52 instructed the field to advise the Bureau of any action taken by the American Civil Liberties Union to investigate the Bureau. Bufiles contain a notation that the Emergency Civil Liberties Union Committee was formed in 1951 by 150 educators, clergymen and professional men.

TRUE COPY

[redacted] Orange, California

[redacted] KEllogg 8-3902 [redacted]

b6
b7C

September 10, 1960

Dear Sir,

I am particularly interested in receiving some accurate material regarding the American Civil Liberties Union and the Emergency American Civil Liberties Union.

I have been asked to attend their meetings. It has been received and condemned by several friends. I do not wish to be ignorant of this group.

I am keenly disappointed in the average citizen's lack of knowledge (I, included) regarding Communism in the United States. If you can direct me to some good sources, for accurate materials, I would be very grateful, to you, and for your helpful direction.

Sincerely yours,

/s/ [redacted]

Wb.
nml
ack 9-22-60
RWE/jah/yka *1/c*
9-21-60
yah

EX 109

October 18, 1960

REC-26

61-190-825

Mr. [REDACTED]

Escanaba, Michigan

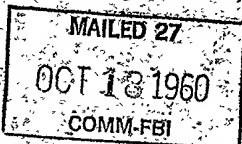
Dear Mr. [REDACTED]

b6
b7C

Your letter of October 10, 1960, has been received, and the interest which prompted you to write is indeed appreciated.

While I would like to be of assistance in response to your inquiry, the FBI is strictly an investigative agency of the Federal Government and is not authorized to make evaluations or draw conclusions as to the character or integrity of any individual, publication or organization. Our files are maintained as confidential due to regulations of the Department of Justice. I hope you will not infer either that we do or do not have data regarding the organization you mentioned.

Sincerely yours,



John Edgar Hoover
Director

[Handwritten signature]
OCT 18 1 58 PM '60

[Handwritten initials]
fer

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
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Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

NOTE: The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The LA Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC letter 58-52 instructed the field to advise the Bureau of any action taken by the ACLU to investigate the Bureau.

SAW:bew (3)

OCT 21 1960

TELETYPE UNIT

[Handwritten signature]

[Handwritten signature]

[redacted]
Escanaba, Michigan
October 10, 1960

F.B.I.

b6
b7c

Washington, D.C.

Sirs:

Will you please give me the following
information as soon as possible.

to the American Civil Liberties Union
156 Fifth Avenue, New York 10, N.Y. in
any way connected with subversive
activities?

Yours truly,

[redacted]

nmh
New
ack 10-18-60
SAW
True copy
10-17-60
New

EX 109

REC-26

61-190-835

OCT 19 1960

CORRESPONDENCE
Sent

TRUE COPY

[redacted]
Escanaba, Michigan
October 10, 1960

F.B.I.
Washington, D.C.

Sirs:

b6
b7C

Will you please give me the following
information as soon as possible.

Is the American Civil Liberties Union
156 Fifth Avenue, New York 10, N.Y. in any way
connected with subversive activities?

Yours truly

[redacted]

nmrl
ack

10-18-60
SAW

1 true copy
10-17-60
new

8-Dec-1960

REC-26

61-190-836

October 27, 1960

Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
156 Fifth Avenue
New York 10, New York

Dear Pat:

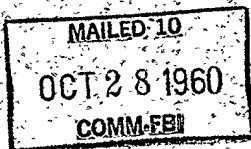
Your letter of October 24, 1960, pertaining to Arthur Pearlroth, has been received. It was good of you to call this information to my attention.

We have a very strict rule in the FBI that no interviews are to be conducted over the telephone and this leads me to believe that the caller in question was not a Special Agent of this Bureau. Perhaps someone else might have identified himself as being with the FBI to obtain information.

However, in view of your inquiry, we have made a detailed check of our New York Office and they report that they have had nothing to do with this matter.

Sincerely,

C. D. DeLoach



1 - Mr. DeLoach

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DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

NOTE: See Jones to DeLoach memo dated 10-27-60 captioned "Patrick Murphy Malin, Executive Director, American Civil Liberties Union (ACLU) Inquiry Concerning Alleged FBI Investigation." NHC:jo

NHC:jo

(6) 2-1059

MAIL ROOM ☐

TELETYPE UNIT ☐

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Lyle B. Ewert
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Lisle C. Carter, Jr.
John B. Danby
William A. Delano
Edward J. Ennis
John F. Finerty
Osmond K. Fraenkel
Walter Frank
Lewis Galantiere
Walter Gellhorn
Julian E. Goldberg
Louis M. Hacker
August Heckscher
Frank S. Horne
B. W. Huebsch
Sophia Yarnall Jacobs
John Paul Jones
Dorothy Kenyon
Dan Lacy
Edward O. Miller
Walter Millis
James O'Gara
Gerard Piel
Elmer Rice
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J. Wates Waring
Howard Whiteside
Edward Bennett Williams

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Vice-Chairman Emeritus
Bishop Edward L. Parsons (Calif.)
Vice Chairmen
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Prof. Albert Sprague Coolidge (Mass.)
Prof. J. Frank Dobie (Texas)
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Dr. Frank P. Graham (U.N.)
Palmer Hoyt (Colo.)
Dr. Karl Menninger (Kans.)
Loren Miller (Calif.)
Morris Rubin (Wisc.)
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J. Garner Anthony (Hawaii)
Thurman Arnold (D.C.)
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Victor Fischer (Alaska)
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James Lawrence Fly (Fla.)
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Prof. Willard E. Gostlin (Tenn.)
Prof. Mark DeW. Howe (Mass.)
Quincy Howe (N.Y.)
Dr. Robert M. Hutchins (Calif.)
Gerald W. Johnson (Md.)
Dr. Mordecai W. Johnson (D.C.)
James Kerney, Jr. (N.J.)
Benjamin H. Kizer (Wash.)
Dr. John A. Lapp (Ill.)
Mrs. Agnes Brown Leach (N.Y.)
Max Lerner (N.Y.)
Prof. Robert S. Lynd (N.Y.)
Prof. Robert Mathews (Ohio)
Prof. Wesley H. Maurer (Mich.)
Dr. Millicent C. McIntosh (N.Y.)
Dr. Alexander Meiklejohn (Calif.)
Harry C. Meserve (N.Y.)
Sylvan Meyer (Ga.)
Donald R. Murphy (Iowa)
Dr. J. Robert Oppenheimer (N.J.)
John B. Orr, Jr. (Fla.)
Bishop G. Bromley Oxnam (D.C.)
James G. Patton (Colo.)
A. Philip Randolph (N.Y.)
Elmo Roper (N.Y.)
Prof. Arthur Schlesinger, Jr. (Mass.)
Dr. Edward J. Sparling (Ill.)
Prof. George R. Stewart (Calif.)
Mrs. Dorothy Tilly (Ga.)
Jose Trias-Monge (Puerto Rico)
William W. Waymack (Iowa)
Stanley Weigel (Calif.)
William L. White (Kans.)
Aubrey Williams (Ala.)
Marion A. Wright (N.C.)
Dean Benjamin Youngdahl (Mo.)

American Civil Liberties Union

Founded 1920
Incorporated

156 FIFTH AVENUE, NEW YORK 10, N. Y. • ORegon 5-5990

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Melvin L. Wulf
Asst. Legal Director

Arthur Pearlroth
Editorial Consultant

40th
Anniversary

October 24, 1960

Personal

Mr. C.D. DeLoach, Assistant Director
Federal Bureau of Investigation
Department of Justice
Washington, D.C.

Dear Deke:

It was good to have your Christmas card last year, and even better to see you again at the International Latex/Elmo Roper party in August; and I am happy not to have had to trouble you occupationally since the summer of 1959. But I have just learned of something baffling, which I think you will want to investigate right away, and then tell me what you can of the explanation -- and remedial action, if necessary.

Since last December, we have had as an editorial consultant, in one-year employment for our 40th Anniversary, Arthur Pearlroth of 14 Washington Place, New York 11 (ALgonquin 4-8118). Before taking on this temporary work for us, he was -- as is probably recorded in FBI or other investigative-agency files -- in Korea for Operations Research of the Department of the Army, with the McGraw-Hill Company writing military books, and with the New York State Department of Labor in an editorial capacity.

One day two weeks ago, a friend of his, [redacted], also of 14 Washington Place (ALgonquin 4-4465), was in the outer office of Peter Jacobson (rental agent of their apartment house), 11 Waverly Place, New York 11 (GRamercy 7-9060). He by chance heard Mr. Jacobson's secretary, a Miss [redacted] (in that outer office), talking on the phone with someone whom her words identified as being with the FBI at LEhigh 5-7701; and heard her mention Mr. Pearlroth's name, and state -- apparently in answer to questions -- that so far as she knew he paid his rent on time but was a troublesome person.

Mr. [redacted] naturally told Mr. Pearlroth, who in turn naturally tried to find out what it was all about. Miss [redacted] it appears, did indeed have an FBI inquiry about him: on what bank did he draw his checks?

Let it Malin
DeLoach signature
10-27-60
NHC/JO

DeLoach memo
10-26-60
NHC/JO

15 OCT 31 1960

Washington Office — 1612 Eye Street, N.W., Washington 6, D.C.; Lawrence Speiser, Director; Bernice Myers, Executive Assistant

With organized affiliates in twenty-five states and 800 cooperating attorneys in 300 cities of 48 states

October 24, 1960

what did she think of him? This naturally caused Mr. Pearlroth to ask himself why the FBI should be in any way interested in him. It could hardly have been because, a year and a half ago, he had discussed the possibility of a job with a Rand Corporation official (he did not, in the upshot, even apply for it); or because he is active in the anti-Tammany wing of the local Democratic party (he is, though active, not so prominent as all that); or because he is on our staff for a while.

Could it be merely because he is the representative of the tenants of 14 Washington Place in a rent-reduction question before the Temporary Commission to Study Rents of New York State, 270 Broadway, New York 7 (REctor 2-1500)? If so, had the rental agent (on behalf of the landlord?) made an original approach to the FBI before the phone conversation overheard by Mr. [redacted]? Anyhow, what is the FBI interest in that sort of matter? Or is something else the cause?

b6
b7C

I am deeply concerned over this kind of thing happening to a member of my staff, or to any other citizen.

Yours sincerely,

*Pas*Patrick Murphy Malin
Executive Director

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

DATE: October 27, 1960

FROM : M. A. Jones

SUBJECT: PATRICK MURPHY MALIN
 EXECUTIVE DIRECTOR
 AMERICAN CIVIL LIBERTIES UNION (ACLU)
 INQUIRY CONCERNING ALLEGED FBI INVESTIGATION

Tolson _____
 Mohr _____
 Parsons _____
 Belmont _____
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire _____
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan _____
 Tele. Room _____
 Ingram _____
 Gandy _____

By letter dated 10-24-60, Mr. Patrick Murphy Malin, Executive Director, ACLU, 156 Fifth Avenue, New York 10, New York, wrote Assistant Director DeLoach advising that someone had telephonically contacted a Miss [redacted] (not further identified) at the Peter Jacobson Rental Agency, 11 Waverly Place, New York, New York, inquiring about one Arthur Pearlroth, 14 Washington Place, New York, New York, who is an Editorial Consultant with the ACLU. The caller said he was with the FBI.

Malin advised that one [redacted] ^{NEW YORK, N.Y.} who resides in the same building with Pearlroth at 14 Washington Place, had overheard Miss [redacted] state that so far as she knew he (Pearlroth) paid his rent on time but was a troublesome person.

The New York Office was telephonically contacted on 10-25-60 and advised of this information. They were subsequently contacted on 10-26-60 at which time SA [redacted] advised that a detailed check of the office, including their indices, reflected that they had nothing whatsoever to do with this matter. He commented that it sounded as if someone was using the FBI's name to obtain information.

He added that this inquiry might have come from a credit bureau or a bank. He continued that there was one instance in the past where a bank employee had called an individual and attempted to obtain information by saying he was with the FBI. He said that this employee was severely reprimanded by both his superiors and Agents of the New York Office when this matter came to light. He added that the New York Office has cordial relations with the Credit Bureau of Greater New York and to his knowledge they are not guilty of such activity. He qualified this remark by stating that, of course, it is possible.

Enclosure *Rec'd 10-28-60*

(continued next page)

1 - Mr. DeLoach

118 NHC:jo
 (5)
 62 NOV 16 1960

REC-21

61-190-837
 12 NOV 1 1960
 CRIME RESEARCH

Jones to DeLoach (continued)

b6
b7C

Bufiles reflect nothing identifiable with Pearlroth and [REDACTED]
Bufiles further reflect that the Director has corresponded with Malin in a cordial vein in the past. The American Civil Liberties Union is, by its own statement, a liberal but anticommunist organization which in the past has done considerable sniping at the Bureau particularly regarding wire tapping. However, contact and correspondence with its leaders have continued on a friendly basis.

Inasmuch as the information in question is of a hearsay nature and in view of their willingness to attack the Bureau, it is believed the attached letter is in order.

RECOMMENDATION:

That the attached letter over Mr. DeLoach's signature be sent to Malin informing him that there is a strict rule against conducting interviews over the telephone in the FBI and that our New York Office reports that we have had nothing to do with this matter.

APC
10/24
Dio/28
OK/2
d.

✓

SAC, New York

November 10, 1960

Director, FBI

PATRICK MURPHY MALIN
EXECUTIVE DIRECTOR

AMERICAN CIVIL LIBERTIES UNION (ACLU)

INQUIRY CONCERNING ALLEGED FBI INVESTIGATION

By letter dated 10-24-60, a copy of which is enclosed, Mr. Patrick Murphy Malin, Executive Director, ACLU, 156 Fifth Avenue, New York 10, New York, wrote Assistant Director DeLoach advising him that someone had telephonically contacted a Miss [redacted] (not further identified) at the Peter Jacobson Rental Agency, 11 Waverly Place, New York, New York, and identified himself as an FBI Agent. He then asked information concerning one Arthur Pearlroth, 14 Washington Place, New York, New York, who is an Editorial Consultant with the ACLU.

Malin advised that one [redacted] who resided in the same building as Pearlroth, at 14 Washington Place, had overheard Miss [redacted] state that so far as she knew Pearlroth paid his rent on time but was a troublesome person.

A check was made of your Office on 10-25-60 through SA [redacted] and he subsequently advised on 10-26-60 that there was no indication that the New York Office knew anything about this matter.

Malin was advised by letter dated 10-27-60 over Mr. DeLoach's signature that the FBI does not conduct interviews over the telephone and that a check of the New York Office revealed that the FBI has had nothing to do with this matter.

By letter dated November 3, 1960, a copy of which is enclosed, Malin advised that he checked further into the possibility of false identification and learned that the people at the Peter Jacobson

Enclosures (2)

1 - Mr. DeLoach

NOTE: See Jones to DeLoach Memorandum dated 11-8-60 captioned same as above.

NHC:dau

(7)

NOV 23 1960

MAIL ROOM ☐ TELETYPE UNIT ☐

Tolson _____
Mohr _____
Parsons _____
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Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

MAILED 20
NOV 10 1960
COMM-FBI

SAC, New York
Re: PATRICK MURPHY MALIN

Office said they were asked questions about Mr. Pearlroth by men whom they believed to be FBI Agents.

This information is called to your attention in view of the possibility that a violation of the Impersonation Statute exists.

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Dr. Edward J. Sparling (Ill.)
Prof. George R. Stewart (Calif.)
Mrs. Dorothy Tilly (Ga.)
Jose Trias-Monge (Puerto Rico)
William W. Waymack (Iowa)
Stanley Weigel (Calif.)
William L. White (Kans.)
Aubrey Williams (Ala.)
Marion A. Wright (N.C.)
Dean Benjamin Youngdahl (Mo.)

American Civil Liberties Union

156 FIFTH AVENUE, NEW YORK 10, N. Y. • ORegon 5-5990

Founded 1920
Incorporated

40th
Anniversary

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Board of Directors
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Assistant Director

Melvin L. Wulf
Asst. Legal Director

Arthur Pearlroth
Editorial Consultant

November 3, 1960

Personal

Mr. C. D. DeLoach, Assistant Director
Federal Bureau of Investigation
Department of Justice
Washington, D.C.

Dear Deke:

I am most grateful for your prompt and reassuring letter of October 27 concerning the strange inquiries about Arthur Pearlroth. In checking further into the possibility of false identification, which you mention, I discover that the office of the rental agent (Peter Jacobson, 11 Waverly Place, New York 11 -- GRamercy 7-9060) apparently does sincerely believe that it was asked questions about Mr. Pearlroth by men whom it took to be genuine FBI agents (whose names have, properly, not been given to me) -- in a phone call from one who has inquired in person about various tenants in various buildings, (including 14 Washington Place, N.Y.C., Mr. Pearlroth's residence) for several years, and in a visit from a new one. So, I am passing on this further word right away, knowing that you will wish to find out -- through questions put to the rental agent and otherwise -- just what has been going on.

Irving Ferman has told me of the fine service you did for us at the recent American Legion Convention. I am therefore grateful all over again, personally as well as officially.

Yours sincerely,

Patrick Murphy Malin
Executive Director

Washington Office — 1612 Eye Street, N.W., Washington 6, D.C.; Lawrence Speiser, Director; Bernice Myers, Executive Assistant

With organized affiliates in twenty-five states and 800 cooperating attorneys in 300 cities of 48 states

CORRESPONDENCE

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

DATE: November 8, 1960

FROM : M. A. Jones

SUBJECT: PATRICK MURPHY MALIN
EXECUTIVE DIRECTOR
AMERICAN CIVIL LIBERTIES UNION (ACLU)
INQUIRY CONCERNING ALLEGED FBI INVESTIGATION

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

You will recall that Patrick Murphy Malin, Executive Director, ACLU, 156 Fifth Avenue, New York 10, New York, wrote Assistant Director DeLoach advising that someone who identified himself as an FBI Agent telephonically contacted the Peter Jacobson Rental Agency, 11 Waverly Place, New York, New York, and inquired about Arthur Pearlroth, an Editorial Consultant with the ACLU.

The New York Office was telephonically contacted on 10-25-60 and advised of this information. They called on 10-26-60, at which time they advised that a detailed check of the office, including their indices, reflected that the New York Office had nothing whatsoever to do with this matter.

Malin was advised by letter dated 10-27-60 over Mr. DeLoach's signature that inasmuch as we have a strict rule in the FBI that telephonic interviews are not to be conducted, ~~that~~ the possibility existed that someone else might have called and identified themselves as being with the FBI to obtain information. He was told that a detailed check of our New York Office failed to shed any light on this matter.

By letter dated November 3, 1960, to Assistant Director DeLoach, Malin stated he checked further into the possibility of false identification of this matter and comments that the people at the Rental Office previously mentioned believed the caller or callers to be FBI Agents.

In view of this, it is believed advisable to alert SAC New York to check into the possibility of an impersonation case.

Enclosure *sent 11-10-60*

1 - Mr. DeLoach

NHC:dau

(5)

118
62 NOV 22 1960

REC-76

61-198-839
12 NOV 16 1960

Jones to DeLoach 11-8-60
Re: PATRICK MURPHY MALIN

RECOMMENDATION:

That the attached letter be sent to SAC New York alerting him to the possibility of an impersonation matter.

A stylized handwritten signature, possibly reading "J. Edgar Hoover", written in dark ink.

JPM 11/10 RL

Yes. ✓
H

1 - Mr. [redacted]

December 7, 1960

REC-22

EX-105

Mr. [redacted]

Florida State University
Tallahassee, Florida

Dear Mr. [redacted]

Your letter dated November 28, 1960, has been received and the interest which prompted your communication is indeed appreciated.

In response to your inquiries, I must advise that the jurisdiction and responsibilities of the FBI do not extend to furnishing evaluations or comments concerning the character or integrity of any individual, publication or organization. The FBI is strictly an investigative agency of the Federal Government and, as such, does not issue clearances or nonclearances.

I am enclosing some literature on the topic of communism which may be of interest to you.

Sincerely yours,

John Edgar Hoover
Director

MAILED 5

DEC - 7 1960

COMM-FBI

Enclosures 5

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

THF:bgs
(3)

SEE NOTE ON YELLOW PAGE TWO

DEC 13 1960

MAIL ROOM

TELETYPE UNIT

b6
b7c

Mr.

NOTE ON YELLOW:

Correspondent writes for information concerning American Civil Liberties Union. He states that according to literature distributed by the American Civil Liberties Union they have opposed the Attorney General's list and had fought the establishment of the House Committee on Un-American Activities. Furthermore, he states that they also fought the Smith Act before and after its enactment. Correspondent lists nine organizations which he states that he understands the American Civil Liberties Union has worked with and he asks if these organizations are on any "suspicious" list. Bufiles contain no identifiable data concerning the correspondent.

The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI.

61-190

The following items of literature were furnished to the correspondent.

1. "One Nation's Response to Communism."
2. "Communist Illusion and Democratic Reality."
3. Reprint from "FBI Law Enforcement Bulletin," March, 1960, with "An Analysis of the 17th National Convention of the CP, USA."
4. "America - Freedom's Champion."
5. "What You Can do to Fight Communism and Preserve America."

Nov. 28, 1960

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Washington, D.C.

Dear Sir:

I am writing in regard to an organization known as the American Civil Liberties Union. I am hoping you can give me some information regarding this group.

According to their own pamphlets they helped kill a measure enabling the F.B.I. to investigate all government employees for subversive associations; denounced the issuance of the Attorney General's List of Subversive Organizations without prior hearing for the listed groups and fought Congressman Dies' resolution of 1938 establishing the House Un-American Activities Committee. They also fought the Smith Act, before and after its enactment.

I also understand that they have worked actively with the following organizations. I would appreciate it if you would inform me as to whether any of these groups are or have been listed on any "suspicious" list:

N.A.A.C.P., C.O.R.E., United Church Women, Fellowship of Reconciliation, Anti-Defamation League, American Jewish Congress, American Association of University Professors, Southern Conference Educational Fund and the Women's League International League for Peace and Freedom.

Thank you very much for your time and trouble, I remain,

b6
b7C

Sincerely Yours.

[Redacted Signature Box]

Florida State University
Tallahassee, Florida

EX-105

REC-22

61-190-841

13 DEC 8 1960

CORRESPONDENCE
5-7A

ack 12-7-60
TAP: lgc

INSTRUCTIONS: This form is to be removed from file by a File 2 Unit employee only upon the return of the item.
Subject

Type of Mail	Date of Mail
☐ Report	
☒ Incoming letter	11-10-60
☒ Outgoing letter	11-21-60
☐ Memorandum	
☐ Airtel	
☐ Teletype	
☐ Enclosure (describe)	
☐ Laboratory Work Sheet	
☐ Personnel Security Questionnaire (PSQ)	
☐ Loyalty Form	
☐ Other (describe)	

b6
b7C

Removed for	Removed by	Date of Removal
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61-190-840

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☒ Radio☐ Teletype

Tolson ☒
 Mohr ☒
 Parsons ☒
 Belmont ☒
 Callahan ☒
 DeLoach ☒
 Malone ☒
 McGuire ☒
 Rosen ☒
 Tamm ☒
 Trotter ☒
 W.C. Sullivan ☒
 Tele. Room ☒
 Ingram ☒
 Gandy ☒

URGENT 12-12-60

TO DIRECTOR

FROM SAC LOS ANGELES 122251

(ACLU)

AMERICAN CIVIL LIBERTIES UNION, INFO CONCERNING, CINAL.
 ATTORNEY A.L. WIRIN, LOCAL ACLU OFFICIAL, IN COURSE OF FORUM
 DISCUSSION ON TV STATION KCOP, LOS ANGELES ON HCUA ON DECEMBER 11
 LAST STATED ACLU PRESENTLY PREPARING SUIT AGAINST WILLIAM
 WHEELER, WEST COAST REPRESENTATIVE OF HCUA. SUIT WILL CHARGE
 THAT FILM "OPERATION ABOLITION" DEPICTING YOUTH RIOTS IN
 SAN FRANCISCO DURING MAY 1960 HCUA HEARING WAS DISTORTED AND
 FRAUDULENT. 1 ALIF

RECEIVED:

7:34 PM RADIO

7:51 PM CODING UNIT RKK

REC-57

61-190-842

EX-120

DEC 15 1960

DEC 21 1960

F B I

Date: 12/6/60

Transmit the following in _____
(Type in plain text or code)Via AIRTEL AIR MAIL - REGISTERED
(Priority or Method of Mailing)

Mr. Tolson	✓
Mr. Mohr	✓
Mr. Parsons	✓
Mr. Belmont	✓
Mr. Callahan	✓
Mr. DeLoach	✓
Mr. Malone	✓
Mr. McGuire	✓
Mr. Rosen	✓
Mr. Tamm	✓
Mr. Trotter	✓
Mr. W.C. Sullivan	✓
Tele. Room	✓
Mr. Ingram	✓
Miss Gandy	✓

TO: DIRECTOR, FBI (61-190)

FROM: SAC, LOS ANGELES (100-3267)
(100-32495)

RE: AMERICAN CIVIL LIBERTIES UNION (ACLU)
IS - C

ATTACKS AGAINST THE FBI

The "Los Angeles Times," a daily newspaper, on 12/3/60 carried an article entitled "Legion Asks Expulsion of Two Teachers," which states "Expulsion of two faculty members from Long Beach State College was asked Friday night by the County Council of the American Legion for their alleged part in a campus campaign to abolish the House Committee on Un-American Activities...." "Dr. JAMES R. LECHNER, 23rd District Americanism chairman, was adopted unanimously. He charged that Dr. GEORGE KORBER, professor of sociology, and Dr. JAMES LEAN, professor of political science, staged a mock hearing of the committee which ridiculed the committee and the Federal Bureau of Investigation...."

[redacted] Lakewood, Calif., a student at Long Beach State College (LBSC), on 12/6/60 voluntarily furnished SA EMERY D. TURNER, of the Long Beach RA, a written report which advised that a campus chapter of the ACLU at LBSC had staged a drama for the benefit of the students, depicting a hearing by the HCUA on 12/2/60. [redacted]

* LONG BEACH STATE COLLEGE

6 - Bureau (Encls. -2) (REGISTERED AIR MAIL) EX-105

3 - Los Angeles

(1 - [redacted] 100-54284)

EDT:jss

(9)

REC-35

10 DEC 8 1960

2 ENCLOSURE

cc - Wick

cc - Baumgardner

Approved: [signature]
Special Agent in Charge

Sent _____ M Per [signature]

acted in the play as chairman of the HCUA and portrayed Chairman FRANCIS E. WALTER (D - Pa.). [] a student, was called by the committee as a witness and portrayed the role of "an undercover agent for the FBI." [] played the part of a cooperative witness and in answer to questions put to him by the mock committee chairman, [] described his background, birthplace, education, etc. Before the committee questioned [] read the Preamble to the Constitution of the Communist Party (CP), and asked [] if he understood the matter just read, to which [] answered he did, and in a mocking tone of voice proceeded to charge there were school organizations at LBSC linked with the CP. [] further charged "there were 12 card carrying communists, together with 200 fellow travelers" at LBSC. [] continued to allege that communists had penetrated political organizations as well as religious organizations off campus.

b6
b7c

According to [] the only reference made to the FBI during the program was that [] answered that he was "an undercover agent for the FBI."

The indices of the Los Angeles Office contain no derogatory information of specific nature concerning subversive affiliations or leanings on the part of [] or the student []

[] is carried on the Security Index at Los Angeles; Bufile 100-417520, LA 100-54284.

The above matter will be followed through established sources and the Bureau will be kept currently advised in view of the American Legion's motions for expulsion of the two teachers involved from the faculty of the LBSC.

Enclosed for the Bureau are two copies of the "Los Angeles Times" article mentioned above.

Legion Asks Expulsion of Two Teachers

Expulsion of two faculty members from Long Beach State College was asked Friday night by the County Council of the American Legion for their alleged part in a campus campaign to abolish the House Committee on Un-American Activities.

The motion, requested in a report made by Dr. John R. Lechner, 23rd District Americanism chairman, was adopted unanimously.

It charged that Dr. George Korber, professor of sociology, and Dr. James Lean, professor of political science, staged a mock hearing of the committee which ridiculed the committee and the Federal Bureau of Investigation.

Dr. Lechner said memberships were solicited in the college branch of the American Civil Liberties Union and petitions were circulated for abolishing the Un-American Activities Committee.

LOS ANGELES TIMES

DATE 12-3-60

LOS ANGELES, CALIF. 1

EDITOR _____

LOS ANGELES FIELD DIVISION

61-190-843
ENCLOSURE

12/9/60

AIRTEL

AIRMAIL - REGISTERED

TO: DIRECTOR, FBI (100-417520)
FROM: SAC, LOS ANGELES (100-54284)
RE: [REDACTED] aka
SM - C

Re my airtel 12/6/60 captioned "ACLU, IS-C" (bufile 61-190).

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On 12/8/60, [REDACTED] and [REDACTED] the Fortyniner, Long Beach State College newspaper contacted the Long Beach Resident Agency and advised SA [REDACTED] that the mock hearing, described in referenced communication, on 12/2/60, was the idea of [REDACTED] and that he wrote the script and took part in the hearing. They advised that [REDACTED] is active in a publication at the school called "Wild" which is satirical in nature and has taken opposition to the HCUA and demanded peace and abolition of atomic weapons. This publication is not approved by the school and is financed by students who are close to [REDACTED]. They advised that [REDACTED] and [REDACTED] have heard [REDACTED] tell other students at the college that the FBI [REDACTED]

A review of [REDACTED] file reflects that the 6/7/56 issued of the Daily Worker carried an article on

4 - Bureau
(1 - 61-190) (REGISTERED)
2 - Los Angeles
(1 - 100-3267)

JRC:PJR
(6)

NOT RECORDED
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100-417520-41
ORIGINAL FILED IN

LA 100-54284

page 1 captioned "Hundreds in Detroit at Dambrowski Rites", in which THOMAS X. DOMBROWSKI was described as the editor of "Glos Ludowi" who was killed by unidentified assailants in New York City, New York on 5/31/56. The 6/1/57 issue of "Glos Ludowi" on page 16, columns 4 and 5 carried an article entitled "My Dad" by JAMES DOMBROWSKI. Instant article is an eulogy in commemoration of THOMAS X. DOMBROWSKI, in which JAMES DOMBROWSKI sets forth the convictions and ideals that his deceased father had endorsed. DOMBROWSKI described his father as an American fascist and stated that the works accomplished by him would continue to live on after him.

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[redacted] and [redacted] advised they wanted to know if the FBI was aware of any subversive activities concerning [redacted]. They were advised of the confidential nature of Bureau files.

Above submitted for information.

In view of the fact [redacted] of the American Civil Liberties Union (ACLU) Chapter on the campus of the Long Beach State College, Long Beach, California, no interview is contemplated by the Los Angeles Office, UACB.

12/15/60

AIRTEL

AIR MAIL

TO: DIRECTOR, FBI (100-417520)
FROM: SAC, LOS ANGELES (100-54284)
RE: [REDACTED] aka.
SM - C

OO: Los Angeles

Re Los Angeles airtel to Bureau, captioned "American Civil Liberties Union IS - C; Attacks Against the FBI", dated 12/6/60, concerning American Legion's request for expulsion of two faculty members at Long Beach State College, because of their alleged part in a campus campaign to abolish the House Committee on Un-American Activities. This movement was spearheaded by Dr. JAMES R. LECHNER, 23rd District Americanism Chairman of the American Legion. By letter dated 12/12/60, LECHNER directed request to Los Angeles Office to furnish what information is permitted to be given him concerning [REDACTED] a student who took part in a mock trial of the HCUA, as well as [REDACTED] (THOMAS X. DOMBROWSKI). Review of Los Angeles file on captioned subject reveals this office does not have pertinent public source material for dissemination. Dr. [REDACTED] request will be handled very circumspectly by SAC SIMON personally.

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Detroit is requested to furnish Los Angeles two photostatic copies of following items if available:

(a) June 7, 1956 issue of "Daily Worker"
(DW) page 1 of article captioned "Hundreds in Detroit at

- 4 - Bureau (REGISTERED)
(2 - 61-190)
- 2 - Detroit (100-22374) (REGISTERED)
- 1 - Los Angeles

CEW/seb
(7)

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LA 100-54284

at Dambrowski Rites" (See Detroit Report SA [redacted]
10/28/57, page 2).

(b) June 1, 1957, issue "Glos Ludowy" page 16,
columns four and five of article, entitled "My Dad" by
James Dombrowski. (See same report as above, page 5).

(c) October 22, 1955 issue "Glos Ludowy",
article captioned "Congratulations to editor T. X.
DOMBROWSKI" (See Detroit report SA [redacted]
5/29/56, pages 7 and 8.)

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(d) October 1, 1955 issue "Glos Ludowy",
article captioned "Jim Dombrowski to visit Chicago".
(See same report as above, pages 9 and 10.

(e) February 4, 1956 issue of "Glos Ludowy",
article captioned "Press Banquet in Cleveland". (See
report as above, page 10).

(f) January 1, 1956 issue of "Michigan Edition -
The Worker", article captioned "Detroit Poles Give \$200."
(See same report as above, page 11.)

Detroit is requested to also furnish any other
pertinent public source material suitable for dissemination
regarding [redacted]

UACB, SAC SIMON will then review this public
source material to ascertain if it can be furnished to
Dr. LECHNER. The Bureau will be kept fully advised
of further developments in the matter.

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (61-190)

FROM : SAC, PORTLAND (100-9055)

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
INTERNAL SECURITY - C

DATE: 12/15/60

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pc

The Oregonian, Portland daily newspaper, on 12/13/60, contained a front page story headlined "Nativity Scenes Draw Criticism," in which it was indicated that "The 'American Civil Liberties Union' (ACLU) has protested the placement of a nativity scene on the Capitol Mall at Salem (Oregon) and at the Pioneer Post Office station in Portland." The article continued that in a letter to the Salem Chamber of Commerce, which erected the scene at Salem, and to Oregon Secretary of State HOWELL APPLING, JR., who gave his permission for the Christmas exhibit, the presence of the religious scene was protested by CHARLES DAVIS, 7824 S. E. 27th Avenue, Portland, the Chairman of the "Oregon Civil Liberties Union." *Oregon*

The article in referring to DAVIS' letters quoted DAVIS as having written that "The U. S. Supreme Court has said that the first amendment of the federal Constitution requires 'the state to be neutral in its relations with groups of religious believers and non-believers'." Further, "To use the Capitol Mall for a religious display aids and endorses religion, which the state of Oregon is not permitted to do."

Mr. APPLING was quoted as having attacked the ACLU action and as having stated the Christmas scene would remain on the mall until the Christmas observance was completed. Under the sub-caption, "Nit-Picking Charged," the article noted that APPLING in his reply was critical of the letter, referring to "an age when so much of humanity cries out for divine guidance, I am saddened that you have chosen to nit-pick in the field of constitutionality."

2 Bureau (AM) (Enc. 6)
1 Portland (100-9055)

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REC-38

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EX-124

50 DEC 27 1960

PD 100-9055

The news article continued that a similar letter was sent by DAVIS to the Portland Office of General Services Administration (GSA), protesting the nativity scene erected by the Portland Junior Chamber of Commerce at the Pioneer Post Office, S. W. 6th and Morrison Street, in downtown Portland. The article quoted DARELL L. HOYT, head of the GSA Portland Office, as stating that "We do not plan on rescinding our permit," that he had discussed the objections of the ACLU with the Seattle Regional Office of GSA, and officials there were in agreement. The article concluded by noting that the ACLU had stated there were suitable privately owned locations in Portland and Salem for nativity scenes and urged prompt removal from public property to locations "which would not be in violation of the Constitution."

Meanwhile, on 12/14/60, Mr. DARELL L. HOYT, who identified himself as Area Manager, Area 2, GSA, 209 U. S. Court House, Portland, Oregon, called at the Portland Office. He made reference to the controversial letter received by him from CHARLES DAVIS, 7824 S. E. 27th Avenue, Portland, Chairman, ACLU, concerning the matter outlined above, and the position the ACLU had taken. He stated he has been in contact with the Regional Office of GSA at Seattle concerning the matter, and while the permit has not been withdrawn from the Portland Junior Chamber of Commerce for use of the Pioneer Post Office grounds for the nativity scene, the matter is not yet definitely settled. He planned to communicate further with the Regional Office of GSA relative to the matter, but before making his recommendation he wished to obtain some background relative to the character of the ACLU and CHARLES DAVIS. He noted he is new in the Portland area, and that neither the ACLU nor DAVIS were familiar to him.

Mr. HOYT was advised that the FBI was unable to characterize the ACLU, that the characterization of an organization as subversive was a function of the Attorney General of the United States rather than the Bureau. It was further suggested to Mr. HOYT that in the event the GSA wished to pursue the matter further as to any local ACLU representative, he might wish to have the matter taken up with the Bureau by GSA at the Washington level.

PD 100-9055

Concerning CHARLES DAVIS, the only identifiable reference in Office indices to him is a news item from the Portland Reporter, Portland weekly newspaper, dated 9/22/60, captioned "Prominent Portlanders on Reporter Advisory Board," which contained a photograph of CHARLES DAVIS, 7824 S. E. 27th Avenue, identified as personnel director of Electro Scientific Industries. The brief article indicated that DAVIS was educated in the field of accounting and business administration at the University of California. He is a member of the National Management Club of the Pacific Northwest Personnel Management Association, and a former moderator of the Unitarian Church in Portland, as well as chairman of the "American Civil Liberties Union of Oregon." He also was described as having been active in the Urban League, (a Portland civic group, the aims of which are primarily concerned with the improvement of the welfare of the Negro community).

It is noted no information has been received through Security Informants to indicate Communist influence in the ACLU in Oregon.

Enclosed herewith are five newspaper articles relative to the controversy aroused by the ACLU's action and an editorial which appeared in the Oregonian on 12/14/60.

No further action is contemplated.

Nativity Scenes Will Remain, Appling Tells Liberties Union

The American Civil Liberties Union has protested the placement of a nativity scene on the Capitol Mall at Salem and at the Pioneer Post Office station in Portland.

In a letter to the Salem Chamber of Commerce, which erected the scene, and Secretary of State Howell Appling Jr., who gave his permission for the traditional Christmas exhibit, the presence of the religious scene was protested by Charles Davis, 7824 SE 27th Ave., the chairman of the Oregon Civil Liberties Union.

"The U.S. Supreme Court has said that the first amendment of the federal Constitution requires the state to be neutral in its relations with groups of religious believers and non-believers," Davis wrote.

"To use the Capitol Mall for a religious display aids and endorses religion, which the state of Oregon is not permitted to do.

"The fact that even the majority of citizens find religious inspiration in the nativity scene does not make it a 'non-sectarian' symbol to those who have other religious beliefs or are non-believers," Davis stated.

Appling attacked the ACLU action and said the Christmas scene would remain on the mall until the Christmas observance is completed.

"At a time when Godless communism threatens the very foundations of our way of life, I am dismayed that

you should protest on hyper-legalistic grounds, the placing, at no public expense, of a Christmas scene on the Capitol Mall," Appling said in a letter to Davis.

"In an age when so much of humanity cries out for di-

vine guidance, I am saddened that you have chosen to nit-pick in the field of constitutionality," the secretary of state said. "It is ironic that your protest should be made within days of the erection on the White House lawn of a

giant Christmas tree cut from Oregon forests."

Appling added that he believed there "is more than ample authority" in tradition, national heritage, precedents and constitutionality for using the mall during the short holiday season for the "recognition of the existence of God."

Davis sent a similar letter to the Portland office of the General Services Administration, protesting the nativity scene at the Pioneer Post Office in downtown Portland.

"We do not plan on rescinding our permit," said Darrell L. Hoyt, head of the General Services Administration, Portland office.

Hoyt said he had discussed the ACLU objection to the nativity scene on the Pioneer Post Office grounds with the Seattle Regional Office of the GSA, and officials there agreed that the permit given the Portland Junior Chamber of Commerce should not be withdrawn.

The Civil Liberties Union said there are suitable privately-owned locations in Portland and Salem for nativity scenes, and urged prompt removal from public property to locations "which would not be in violation of the Constitution."

OREGONIAN
Portland, Oreg.
12/14/60

American Civil
Liberties Union

61-190-844
ENCLOSURE



THIS IS THE NATIVITY scene on the Capital Mall in Salem which has drawn protests of the American Civil Liberties Union. Secretary of State Howell Appling said it would remain where it is. (Photo by Joseph V. Tompkins, Salem)

Nativity Scenes Draw Criticism

The American Civil Liberties Union has protested the placement of a nativity scene on the Capitol Mall at Salem and at the Pioneer Post Office station in Portland.

In a letter to the Salem Chamber of Commerce, which erected the scene, and Secretary of State Howell Appling Jr., who gave his permission for the traditional Christmas exhibit, the presence of the religious scene was protested by Charles Davis, 7824 SE 27th Ave., the chairman of the Oregon Civil Liberties Union.

"The U.S. Supreme Court has said that the first amendment of the federal Constitution requires the state to be neutral in its relations with groups of religious believers and non-believers," Davis wrote.

"To use the Capitol Mall for a religious display aids and endorses religion, which the state of Oregon is not permitted to do.

"The fact that even the majority of citizens find religious inspiration in the nativity scene does not make it a non-

sectarian symbol to those who have other religious beliefs or are non-believers," Davis stated.

Appling attacked the ACLU action and said the Christmas scene would remain on the mall until the Christmas observance is completed.

"At a time when Godless communism threatens the very foundations of our way of life, I am dismayed that you should protest on hyper-legalistic grounds, the placing, at no public expense, of a Christmas scene on the Capitol Mall," Appling said in a letter to Davis.

Nit-Picking Charged

"In an age when so much of humanity cries out for divine guidance, I am saddened that you have chosen to nit-pick in the field of constitutionality," the secretary of state said. "It is ironic that your protest should be made within days of the erection on the White House lawn of a giant Christmas tree cut from Oregon forests."

Appling added that he believed there "is more than ample authority" in tradition, na-

tional heritage, precedents and constitutionality for using the mall during the short holiday season for the "recognition of the existence of God."

Davis sent a similar letter to the Portland office of the General Services Administration, protesting the nativity scene at the Pioneer Post Office in downtown Portland.

"We do not plan on rescinding our permit," said Darrell L. Hoyt, head of the General Services Administration Portland office.

Hoyt said he had discussed the ACLU objection to the nativity scene on the Pioneer Post Office grounds with the Seattle Regional Office of the GSA, and officials there agreed that the permit given the Portland Junior Chamber of Commerce should not be withdrawn.

The Civil Liberties Union said there are suitable privately-owned locations in Portland and Salem for nativity scenes, and urged prompt removal from public property to locations "which would not be in violation of the Constitution."

The Oregonian,
Portland, Oregon
12/13/60
Page 1, Cols. 11-13

RE: ACLU
IS - C

61-190-844

ENCLOSURE

Public Favors Retaining

Nativity Scenes

Despite Civil Liberties

Group Protests

OREGONIAN
PORTLAND, OREGONIAN
12/14/60

AMERICAN CIVIL
LIBERTIES UNION

BuFile 61-190
PD 100-9055

61-190
ENCLOSURE

844

Public reaction Tuesday seemed to favor retention of the nativity scenes on the Capitol Mall at Salem and the grounds of the Pioneer Post Office in Portland.

The request to remove the religious displays which was made by Charles Davis, chairman of the Oregon unit of the American Civil Liberties Union was not supported by any of the persons who contacted the offices of Secretary of State Howell Appling Jr. and Darrell L. Hoyt of the General Services Administration.

"Every telegram, every telephone call and every letter that I have received has been in support of my position (to keep the display on the mall)," Appling said.

Tuesday afternoon somebody stole the figure of the Christ Child from the manger in the Capitol Mall display, Appling said. He called this development "very saddening."

Action Undetermined

Hoyt said the telephone calls he had received at his office and home had been "nothing but congratulatory and quite heartening."

He had earlier announced that the GSA would not rescind its permission to the Portland Junior Chamber of Commerce for the nativity scene and Christmas carols at the Pioneer Post Office.

The action to be taken by the Civil Liberties union now that its request has been rejected is undetermined.

"I am not in a position at this point to say what will be done," Davis said. "It is a matter to be determined by the board, and I am not sure how soon we will get together."

Davis, an accountant, said the reaction to his letters to Appling and Hoyt is "about as I

would expect from the general community."

"But we aren't the ones who got off base," Davis said. "We were asking them to conform to the Bill of Rights."

Criticism of the stand taken by Appling came from Rev. Richard M. Steiner, pastor of the First Unitarian Church of Portland, in a letter to the secretary of state.

"Without entering into the merits of the American Civil Liberties Union protest con-

cerning the placing of a nativity scene on the Capitol Mall, I think you were gratuitously insulting to many Unitarians, living and dead, who have made their contributions to the cultural, political and charitable life of this state, and to those who hold to the Jewish and Buddhist faiths, when you label a nativity scene as 'recognition of the existence of God,'" the Rev. Mr. Steiner said.

ACLU 'Protects Rights'

"We do not hold that Jesus was God, nor is recognition of His existence dependent upon the use of a sectarian scene," the Unitarian minister added.

The American Civil Liberties Union was organized shortly after the end of World War I to protect persons from what the founders viewed as abuses of the Bill of Rights in the Constitution. The abuses included violations of free speech, fair trial and equal protection under the law.

An official publication of the Civil Liberties Union says:

"To keep democracy's guarantees intact, the ACLU defends the civil liberties of everybody — even those who do not believe in civil liberties."

Church Council Commends Appling, Hoyt For Upholding Yule Scenes On Public Lands

The Oregon Council of Churches, Wednesday, commended Secretary of State Howell Appling Jr. and Darrell L. Hoyt of the General Services Administration for their refusal to yield to pressure from the American Civil Liberties Union of Oregon to disallow the presentation of the Nativity scene on state and federal property.

"We are distressed by the trend in our state to create a climate that discourages a religious emphasis under the guise of upholding the concept of separation of church and state," the council said in a statement issued to The Oregonian by its executive committee.

"While we steadfastly reaffirm our belief in the constitutional principle, we insist that the framers of the Bill of Rights never intended that our nation be irreligious or anti-church."

"Such extreme legalism, as advocated by the American Civil Liberties Union, would ultimately result in the elimination of formal prayer in the halls of Congress, a religious oath by the President of the United States, a chaplaincy program in the armed forces, worship services in our state and national parks and inscriptions such as 'In God We Trust,'" the council said.

The council concluded that separation of church and state must not mean the separation of God or religion from the national life, and added, while preserving the concept of the separation of church and state, we must, at the same time, encourage a Godly society.

The request to remove the religious displays was made by Charles Davis, chairman of the Oregon unit of the American Civil Liberties Union.

was not supported by any of the persons who contacted the offices of Appling or Hoyt Tuesday afternoon, somebody stole the figure of the Christ Child from the manger in the Capitol Mall display.

Appling said. He called this development "very saddening." Hoyt said the telephone call he had received at his office and home had been nothing but congratulatory.

He had earlier announced that the GSA would not rescind its permission to the Portland Junior Chamber of Commerce for the Nativity scene and Christmas carols at the Pioneer Post Office. The action to be taken by the Civil Liberties Union, now that its request has been rejected, is undetermined.

The Oregon Council of Churches is headed by Rev. George Dick, executive director, with offices in the Fitzpatrick Building. Rev. Harold Glen Brown is president of the council.

Executive committee members include: Bishop A. Raymond Grant, Judge Alfred Stimonetti, Rev. J. Dwight Russell, Dr. J. Lester Harbush, Bishop James W. Carman, Dr. Adelbert J. Buttery, Bishop Lane W. Barton, Mrs. Carroll C. Roberts, the Rev. Charles H. Addleman, Howard B. Somers, Dr. Rector W. Johnson and Dr. Gordon Frazee.

Bishop Carman added, "It would seem proper for the American Civil Liberties Union to encourage freedom in religious expression and thus encourage all religious groups to manifest their faith on the occasion of special days of significance."

OREGONIAN
Portland, Oreg.
12/15/60

AMERICAN CIVIL
LIBERTIES UNION
BuFile 61-190
PD 100-9055

ENCLOSURE

61-190-844

The Oregonian

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22

WEDNESDAY, DECEMBER 14, 1960

No Hurt In Christmas

To seek to remove every recognition by the state of the religious tradition of the majority of its citizens is absurd. Requests by the Oregon Civil Liberties Union that nativity scenes be removed from the Capitol Mall and the Pioneer Post Office grounds were properly rejected by Secretary of State Howell Appling, Jr. and Darrell L. Hoyt, head of the General Services Administration in Portland.

Legally, under the First Amendment to the U.S. Constitution which establishes the principle of separation of church and state, the state perhaps should be free of any religious influence. But law sometimes must be tempered with common sense.

Carried to its final logical conclusion, strict interpretation of the First Amendment and the courts' rulings under it would prohibit the hanging of Christmas decorations on public lamp posts. It would prohibit the erection of a Christmas tree on the White House lawn, a tree which this year came from Oregon. Carolers might logically be refused permission to sing on public sidewalks.

Sunday is a legal holiday in Oregon, because it's the day of worship of a majority of the people. Christmas Day also is a legal holiday. Since both are based on "sectarian" beliefs, both should become ordinary days, according to Civil Liberties Union thinking. State liquor stores, for instance, should be required to be open every day of the week, on Christmas Day, too.

In commenting the other day on the Portland Public Schools' banning of

Easter programs and contemplated transferring of baccalaureate services from churches to high school auditoriums we said these were proper under constitutional provision so far as they went. But to have been thoroughly logical and legal, Christmas programs should have been banned also, which they were not. To be completely impartial, there should be no Christmas trees in public schools, we said, no cutting out of paper trees or Santa Claus in the kindergartens, no present for teacher or exchange of gifts by pupils in class rooms. This, of course, is as absurd as barring a nativity scene from a publicly-owned lawn.

Purpose of the First Amendment is to protect minorities against persecution which might come through establishment of a religion or prohibition of free exercise of religion. To see that there is no such persecution should be the aim of the Civil Liberties Union, but this does not mean that it should seek to eliminate all marks of centuries-old faith and traditions which lend a warmth to an often chilly world.

The U.S. Supreme Court has said, as Chairman Charles Davis of the Civil Liberties Union pointed out in his letters on the nativity scenes, that the state must be neutral in its relations with groups of religious believers and non-believers. But if all mention of religion were removed from schools and other public places, the state would hardly be neutral. Non-believers then would have won full support of the state.

Let Christmas continue to be observed yet a while. One doubts anyone is really hurt by it.

OREGONIAN
Portland, Oregon
12/14/60

American Civil
Liberties Union
BuFile 61-190
PD 100-9055

61-190-844
ENCLOSURE

Nativity Scene

Complaints

OREGON JOURNAL
Portland, Oregon
12/13/60

Spur Defense

AMERICAN CIVIL
LIBERTIES UNION

BuFile 61-190
PD 100-9055

By Officials

61-190 - 844
ENCLOSURE



NATIVITY SCENE dedicated Monday by Junior Chamber of Commerce on lawn of Pioneer Post Office has come under fire from American Civil Liberties Union. League objects to religious display

on government property, on grounds it violates constitutional requirement for separation of church and state. League's Oregon president, Charles Davis, also protested similar scene on capitol mall in Salem.

Liberties Group Hits State Aid

Presence of Nativity scenes on publicly-owned property in Portland and Salem has aroused leaders of the American Civil Liberties Union to protest display of the Christian tableau as "a violation of the First Amendment guarantee of separation of church and state."

The ACLU protest, expressed in a letter to Secretary of State Howell Appling, Jr., and to the federal General Services Administration offices in Portland and Seattle by Charles Davis, chairman of the Oregon unit, has drawn a brisk reply from Appling, which in turn drew a sharp retort today from Rev. Richard M. Steiner, Portland First Unitarian Church minister.

Three Scenes Irk

Targets of the Davis protest are settings depicting the birth of Christ in the Bethlehem stable, one erected by the Salem Chamber of Commerce on the capitol mall in Salem and another by the Portland Junior Chamber of Commerce on the Pioneer Post Office grounds here.

"Neither the state or federal government can constitutionally aid one religion or all religions," Davis wrote Appling and Darrell L. Hoyt, head of the Portland office of GSA. "To use public property for religious displays aids and endorses religion and religious teaching which neither the state nor the federal government is permitted to do."

The ACLU leader urged that prompt steps be taken to remove the displays from public property, pointing out that there are suitable privately-owned locations in both Portland and Salem where the scenes could be located which "would not be in violation of the constitution."

The scenes will stay where they are, however, if first reactions by both Appling and Hoyt hold good through the Christmas season.

"I respectfully suggest to you that there are other areas of constitutional question far more deserving of your attention," Appling wrote Davis. "I will be glad to suggest a few to you if you desire. In the meantime, I must advise you that insofar as I am concerned the Christmas scene will remain on the capitol mall until the Christmas observance has been completed."

Objection Discussed

Hoyt said, "We do not plan on rescinding our permit." He added that he had discussed the ACLU objection with Seattle regional officials of GSA and they agreed that the permit given the Portland Jaycees should not be withdrawn.

Appling told Davis, "At a time when godless Communism threatens the very foundation of our way of life, I am dismayed that you should protest . . . To raise doubts as you have done, in the spiritual heritage of our state and nation does a deep disservice not only to America, but to those who seek to understand what has made us great. There is more than ample authority in tradition, in our national heritage, in the precedence of a century and I daresay, in constitutionality for the use of the mall for recognition of the existence of God during this brief season."

"We do not hold that Jesus was God, nor is recognition of His existence dependent upon the use of a sectarian scene," the Rev. Mr. Steiner told Appling in a letter sent to Salem today. "I think you were gratuitously insulting to the many Unitarians who have made their contribution to the cultural, political and charitable life of this state, and to those who hold to the Jewish and Buddhist faiths, when you label a nativity scene as 'recognition of the existence of God.'"

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI ATTENTION ASSISTANT DIRECTOR DE LOACH DATE: 12/8/60

FROM : SAC, PHOENIX (100-352)

SUBJECT: AMERICAN CIVIL LIBERTIES UNION
INTERNAL SECURITY - C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/30/93 BY 9803 RDD/SC

In recent weeks in Phoenix a concerted action has been taken by a group of Phoenix business and professional men to show to all available audiences the film "OPERATION ABOLITION" in order to make a stand against Communist infiltration. Several copies of the film have been purchased by this group. The group consists of RALPH WAUGHTAL, a local advertising man, [redacted] who operates a travel Bureau, CLARENCE DUNCAN, an attorney whose father, JOHN DUNCAN, is head of the Liquor Control Commission of Arizona, and [redacted] an insurance man.

Cooperating with this group are other groups such as doctors and dentists; This professional group is headed by Dr. [redacted] and Mrs. [redacted] the Anti-Communist Group, which has affiliated themselves with Dr. SCHWARTZ' Anti-Communist Group in Arizona, which is headed by two ex-Colonels, Colonel FRANK O'KEEFE and Colonel JOHN NORVIEL. They have succeeded in interesting Parent-Teachers groups, church groups, service clubs, American Legion groups, and others in viewing the film.

As a result of their showing the film, they have engendered quite a violent reaction from the AMERICAN CIVIL LIBERTIES UNION which has a strong chapter both in Tucson and Phoenix. The ACLU counts among its members several teachers who have protested the showing of the film in the schools without success. One member of the ACLU, [redacted] a partner in one of the largest department stores in Phoenix, has been plagued with cancellation of accounts, a program instituted by the anti-Communist groups to indicate their displeasure for his participation in the group protesting the showing of the film.

DEC 52 2 30 PM '60

2 - Bureau (enc 1) ENCLOSURE
1 - Phoenix (100-352) DEC 52

E. B. I.

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51 JAN 3 1961

63 JAN 5 1961

ENCLO. BEHIND FILE

REC-35
DEC 52

DEC 28 1960

CRIME RESEARCH

DIRECTOR RE: AMERICAN CIVIL LIBERTIES UNION PX 12/8/60

Representatives of these various groups appear when the film is shown in order to show strength and to refute any protestations from members of the ACLU who might be present. One of the most interesting meetings which evolved from this campaign was held at the Royal Palms School PTA on the night of 11/30/60. Knowing that LEONARD HINDS, a member of the ACLU and head of the Government and History Department of Washington High School, wished to protest the film and to have equal time with CLARENCE DUNCAN who gave a talk on Communism, [redacted] taped on a tape recorder most of the meeting. I am enclosing this tape to the Bureau as I feel that the Bureau would be interested in listening to this program and get a good realization of the reaction that has been caused in Phoenix in this regard.

b6
b7C

It is noted that in order to get the full recording, it will be necessary to, after the tape has been run through completely, reverse it and get the remaining program on the back of the tape, the terminal end and not the initial end of the tape.

NA REC-35

61-190-846

December 22, 1960

Mr. [redacted]

Portland 18, Oregon

b6
b7C

Dear Mr. [redacted]

Your letter of December 13, 1960, has been received, and the interest which prompted your writing is appreciated.

The FBI does not maintain or issue lists such as you mentioned. You can obtain a list of organizations which have been cited by the Attorney General pursuant to Executive Order 10450 by writing to the Subversive Organizations Section, Internal Security Division, U. S. Department of Justice, Washington 25, D. C.

This Bureau is strictly an investigative agency of the Federal Government, and as such does not furnish evaluations or comments relative to the character or integrity of any individual, organization or publication. Information in our files is maintained as confidential due to regulations of the Department of Justice. I hope you will not infer either that we do or do not have information regarding the organization you mentioned.

Sincerely yours,

John Edgar Hoover
Director

1 - Portland - Enclosure

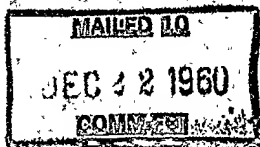
ATTENTION-SAC: (SEE NEXT PAGE)

NOTE: Correspondent is not identifiable in Bufiles. The ACLU is a nationwide nonpartisan organization devoted solely to the protection and advancement of the individual liberties fundamental to the Democratic way of life. The ACLU believes in the free exchange of

(NOTE CONT. NEXT PAGE)

SAW:jka

(3)



Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

59 JAN 13 1961

59 DEC 30 1960

MAIL ROOM ☐

TELETYPE UNIT ☐

Mr. [REDACTED]

12-22-60

b6
b7C

NOTE: (cont.)

political opinion and the freedom to associate for the purpose of political expression, both of which are protected from Government interference by the Constitution. The ACLU has not been investigated by the Bureau. The Los Angeles chapter of the ACLU has circulated a petition calling for abolition of the House Committee on Un-American Activities and, in 1958, the Seattle Chapter recommended an investigation of the FBI.

ATTENTION SAC: You should ascertain if one of your Agents told correspondent your list of subversive organizations was not current. His identity, together with full particulars and recommendation for administrative action, should be forwarded to the Bureau under caption of [REDACTED] Portland, Oregon, Research (Correspondence and Tours) to reach the Bureau no later than 1-3-61.

*See letter of 12/29/60
Letter referred to
p. 3*

[Redacted]
Portland 18, Oregon

December 13, 1960

Federal Bureau of Investigation

b6
b7C

Washington, D. C.

Dear Sirs:

I wonder if you could give me any information regarding an organization known as the American Civil Liberties Union. I have called your office here in Portland, but was informed that their list of subversive organizations is not current and they thought that I could receive more information by writing to you.

If at all possible, I would appreciate receiving a copy of this list if it is available to the public.

My main reason for inquiring with regard to the above mentioned organization is in connection with their recent activities here in the Portland area.

Thank you for your kind assistance.

Very truly yours,
[Redacted]

REC- 35

61-190-846

25 DEC 23 1960

RESIDENCE
CORRESPONDENCE
See

nml
ack.
12-22-60
SAW: yka

1 auto letter made
12-22-60

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

DATE: 12-19-60

FROM : M. A. Jones

5-1 to my 1-10-61 reg Vol. IV #2
issue "Civil Liberties in New York."
only.
5-1 retd 1-17-61 with requested
issue attached. Rm 13.

Tolson _____
Mohr _____
Parsons _____
Belmont _____
Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

House Committee On Un-American Activities
SUBJECT: *HCUA FILM "OPERATION ABOLITION"*
SHOWING AT PHOENIX PTA 11-29-60

BACKGROUND:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/30/93 BY 9803 RDD/K

By letter 12-8-60, SAC, Phoenix advised that a group of Phoenix business and professional men were showing the film "Operation Abolition" to various groups in the Phoenix area. Their showing the film has engendered violent reaction from the local American Civil Liberties Union (ACLU). A member of ACLU, [redacted] a partner in a large department store in Phoenix, has been plagued with cancellation of accounts, a program instituted by the anticommunist groups to indicate displeasure for his participation in the group protesting the film showing.

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b7c

SAC, Phoenix enclosed a tape recording of a meeting of the Royal Palms School PTA on 11-29-60 at which the film was shown. The tape includes a talk by Clarence Duncan, a member of the group showing the film as well as a speech protesting the film by Leonard Hinds, ACLU member and local high school teacher. Duncan gave a short rebuttal after Hinds' talk. The tape also includes a question by a member of the audience directed to Hinds, as well as his reply.

REVIEW OF TAPE RECORDING:

Clarence Duncan in his speech on communism quoted extensively from Director Hoover's introduction to the March, 1960, Law Enforcement Bulletin concerning the communist menace. He further quoted from the reprint "Communist Target--Youth" emphasizing the communists' attempts to subvert our youth. Duncan defined communism as an atheistic doctrine which ignores our conception of morality, and insists that in the war between the classes, the proletariat must do away with the bourgeoisie. Duncan goes on to say that communists have had much success because they are willing to sacrifice in order to gain their ends. Their strategy includes destroying their enemies, which includes the HCUA, Senate Subcommittee on Internal Security and the FBI. He stated that the FBI has operatives within the Communist Party to prove this fact. He further noted that the communists sought to have immigration laws, passport laws, loyalty oaths and etc., repealed. Duncan was vigorous in his defense of the HCUA in its investigations of communism. Duncan stated that he considered J. Edgar Hoover a great authority on the communist menace in this country.

DEC 30 1960

JVA:dgs/par

(7)

CRIME RECORDS
INT. SEC.

Jones to DeLoach memo

12-19-60

RE: HCUA FILM

Leonard Hinds, the ACLU representative, recited a number of accomplishments of the ACLU in its efforts to protect the civil liberties of various groups and citizens in this country. He criticized the film "Operation Abolition" because of its many distortions. He noted that the film fails to note that protests of the HCUA hearings in San Francisco were endorsed by several church groups and many educators in California. He further noted that the film failed to portray police brutality although news correspondents had stated that there was, in fact, police brutality on the part of police on the scene. Hinds questioned the honesty of the HCUA members on presenting such a film. He further indicated that the commentator of the film inferred that students involved were violent and caused the stroke of a 61-year-old policeman on the scene; however, there were no witnesses to prove that this happened. Hinds also complained that the film spliced together events at the demonstration which actually occurred at separate times. Hinds went on to say that he did not condone Archie Brown's actions nor the others for lawlessness; however, he alleged that the HCUA provoked noncommunist youths into protesting its activities. He quoted Supreme Court Justice Black who condemned the HCUA and also Representative James Roosevelt who criticized the HCUA in the House of Representatives. Hinds stated that in 1959, HCUA files on school teachers in California who were suspected of being procommunist were turned over to the school boards who for the most part ignored HCUA allegations. He concluded that he believed that the film should be shown, but that those who desired should be able to dissect it to reveal its distortions.

The rebuttal by Duncan includes quotations by Director Hoover in "Communist Target-Youth" which indicated that violence had flared in the San Francisco riots. Duncan also stated that he would rather take the word of J. Edgar Hoover on communism rather than Representative James Roosevelt. Duncan also stated that Hinds in his speech failed to include mention of efforts by the ACLU to repeal loyalty oaths for teachers, as well as its opposition to the HCUA.

A member of the audience asked Hinds whether the organization to which he belonged was the same ACLU once alleged by the Fish Committee to be communist controlled. She noted that she did not approve of a member of a communist front group teaching her children in school. Hinds answered her by emphatically denying that the ACLU was a communist front organization.

Nothing derogatory in Bufiles concerning Clarence Duncan, Leonard Hinds or

RECOMMENDATION:

For information.

REC-52

61-190-848

December 27, 1960

EX 109

Mr. [REDACTED]

Phoenix, Arizona

Dear Mr. [REDACTED]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/30/93 BY 9803RDD/KSO
291-752

REC'D-READING ROOM

DEC 27 3 34 PM '60

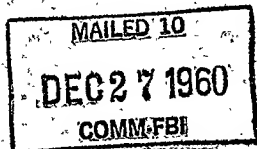
b6
b7c

Your letter of December 12 was received in Mr. Hoover's absence from the city, and I am acknowledging it for him.

In response to your inquiry concerning Mr. Hoover's personal attorney, the information you cited is incorrect. I hope that this clarifies the matter for you.

In view of your interest, I am enclosing a copy of a report setting forth the background of the demonstrations against the House Committee on Un-American Activities in San Francisco.

Sincerely yours,



[Handwritten signature]

Helen W. Gandy
Secretary

Enclosure

Communist Target--Youth

NOTE: Bufiles show limited cordial correspondence with [REDACTED] and no derogatory information regarding him. Bufiles contain no record identifiable with Leonord Hinds.

The American Civil Liberties Union with headquarters in New York City has not been investigated by the Bureau. The Los Angeles Chapter has circulated a petition calling for the abolition of the House Committee on Un-American Activities and the Seattle Chapter has recommended an investigation of the FBI. SAC letter 58-52 instructed AFH:efr (3) (NOTE CONT. NEXT PAGE)

Tolson _____
Mohr _____
Parsons _____
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Callahan _____
DeLoach _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

JAN 4 1961

Mr. [REDACTED]

12-27-60

NOTE (cont.)

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b7C

the field to advise the Bureau of any action taken by the ACLU to investigate the Bureau.

DeLoach to Tolson memorandum entitled "[REDACTED]
[REDACTED], Staff of "Human Events", Inquiry concerning Morris Ernst" dated 6-17-59, HLE:sak, reveals Morris Ernst is not the Director's personal attorney and the only connection he ever had with the Director in this regard is that he acted as an attorney many years ago on one occasion when the Director was contemplating a suit against "Time" magazine for libel.

Mr. Morris Ernst was formerly included on the Special Correspondents' List but deleted in accordance with Mr. Tolson's instructions. He was one of the attorneys hired by the Dominican Republic to conduct an investigation into the disappearance of Dr. Jesus de Galindez. He appeared before an Executive Session of the Senate Judiciary Subcommittee concerning this case, and during the course of his testimony claimed to have been very close to the Director, whom he described as a "treasured friend." It was reported to the Bureau on 5-27-59 that Ernst had alleged to be "J. Edgar Hoover's personal attorney."



PHOENIX, ARIZONA

December 12, 1960

b6
b7C

Mr. Tolson	/
Mr. Mohr	/
Mr. Parsons	/
Mr. Belmont	/
Mr. Callahan	/
Mr. DeLoach	/
Mr. Malone	/
Mr. McGuire	/
Mr. Rosen	/
Mr. Tamm	/
Mr. Trotter	/
Mr. W.C. Sullivan	/
Tele. Room	/
Mr. Ingram	/
Miss Gandy	/

J. Edgar Hoover, Director
Federal Bureau of Investigation
Washington, D. C.

Dear Mr. Hoover:

This letter concerns the showing of the movie Operation Abolition by certain patriotic groups in the Phoenix, Arizona, area. This movie has been very helpful in awakening many people to the threat of Communism. It has been so successful that it is coming under constant attack from left wing liberal groups and by organizations which border on being Communist fronts and have been so cited by several state legislative bodies. One of these groups is the American Civil Liberties Union.

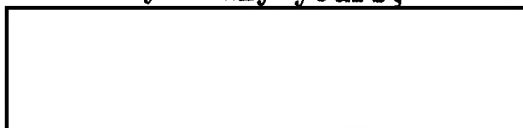
Ariz.

When the movie was shown on the evening of November 29, 1960, at the Royal Palms School in North Phoenix, one Leonard Hinds spoke against the movie and presented many false arguments against the showing of the movie. To strengthen his case and to make the American Civil Liberties Union appear to be a forthright, favorable organization, he cited support of the organization by many well-known citizens of our nation. He made the statement that a personal attorney for J. Edgar Hoover was a member of the American Civil Liberties Union.

We are attempting to get documented information to counteract these false arguments. We have much information already; however, we would appreciate your taking to inform us of the truthfulness of the statement that your personal attorney is a member of the American Civil Liberties Union.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 12/30/93 BY 9803 RDD/PC
EX 109

Very truly yours,



EXP-110

DEC 14 1960

JBL:CP

REC- 52

64-190-848

5 DEC 29 1960

*Ariz.
ack 12-14-60
AFH: yea*

8-atom

UNITED STATES GOVERNMENT

Memorandum

TO : MR. MOHR

DATE: 12/20/60

FROM : C. D. DE LOACH

SUBJECT: PATRICK MURPHY MALIN
Executive Director
American Civil Liberties Union

Tolson _____
 Mohr _____
 Parsons _____
 Belmont _____
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire _____
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan _____
 Tele. Room _____
 Ingram _____
 Gandy _____

Pat Malin, Executive Director, American Civil Liberties Union, stopped by to see me on 12/20/60. He merely was in town for the day and wished to chat about several matters of mutual interest.

Malin mentioned that his organization plans to make an all-out attack against a Federal Crime Commission and Federal clearing house. He advised that their attack will be based on the possible usage of information not of the operational variety. He pointed out that the FBI currently provides great assistance and cooperation to local police and other Federal agencies by daily giving "operational" information which enables local police and other Federal agencies to satisfactorily conclude criminal cases. He explained that his organization fears that if a Federal clearing house were formed that information of the nonoperational variety would be given out, i. e., information which is unsubstantiated stemming from raw files and which would cause considerable damage and harm to the reputation of innocent individuals. I, of course, did not discourage him in his thinking.

We discussed briefly the film, "Operation Abolition," put out by the House Committee on Un-American Activities. Malin told me that his headquarters had issued instructions that Mr. Hoover's report, "Communist Target - Youth," was not to be contested inasmuch as they felt this was strictly a factual, unbiased account. He stated that his organization did, however, plan to launch an all-out campaign against the film inasmuch as it has several inaccuracies therein. I told him that for his confidential information the Director had not endorsed the film inasmuch as it was not the product of the FBI. He stated he thought this was an excellent policy and wanted to bring us up to date regarding their feelings in the matter.

Mr. Malin was accompanied by Irving Ferman, Vice President of International Latex Corporation.

ACTION:

For record purposes.

- 1 - Mr. Parsons (sent direct)
 1 - Mr. Belmont (sent direct)
 CDD:hif
 (4)

50 JAN 6 1961

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 2/30/93 BY 980320

EX - 102

291-752

DEC 30 1960

CRIME RESEARCH

UNITED STATES

Memorandum

TO : Director, FBI

DATE: 12/29/60

FROM : SAC, Portland (100-0)

SUBJECT: [REDACTED]

PORTLAND, OREGON
RESEARCH (CORRESPONDENCE AND TOURS)

ReBulet to Mr. [REDACTED] dated 12/22/60, with
a footnote for my attention.

Portland indices entirely negative as to Mr. [REDACTED]

b6
b7C

I have canvassed agents and night clerks of
the Portland Office in an effort to determine who accepted
a call from Mr. [REDACTED]. No one recalls having received
the call from Mr. [REDACTED].

It is pointed out that this office receives
numerous telephone inquiries daily concerning whether or
not certain organizations are listed as subversive. Many
of the callers do not furnish their names. There is a
standing rule in this office that any inquiry with reference
to whether an organization is or is not subversive is
answered by advising the inquirer that a list of organiza-
tions which have been cited by the Attorney General pursuant
to Executive Order 10450 may be obtained by writing to
the Subversive Organizations Section, Internal Security
Division, U. S. Department of Justice, Washington, D. C.
Such inquirers, without exception, are advised emphatically
that the FBI does not furnish evaluations or comments
relative to the character or integrity of such organizations.
Of course, this office has no control over what interpreta-
tions may be placed upon our answers to these inquiries,
but I am certain from past experience that no one in this
office advised Mr. [REDACTED] that we have a list of subversive
organizations, current or otherwise. Moreover, I am certain
we would never suggest that such an inquirer direct an
inquiry to the Bureau.

My analysis of this matter would be that Mr. [REDACTED]
without giving his name, telephoned the Portland Office and

2 Bureau (AM)
1 Portland
RJM:lam

62 JAN 12 1961

REC-117

61-190-850

9 JAN 4 1961

CORRESPONDENCE

1-2 American Civil Liberties Union
76
JAN 12 1961
JAN 12 1961

PD 100-0

was informed that this office does not have a list of subversive organizations and referred him to the Department of Justice. Thereafter, Mr. [] gave a garbled version of our reply.

b6
b7C

In view of the foregoing, no administrative action is deemed warranted or is recommended.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach

DATE: 12-20-60

FROM : M. A. Jones

SUBJECT: REVIEW OF 40TH ANNUAL REPORT
ENTITLED "BY THE PEOPLE" - Publ.
AND NEWS RELEASE OF THE AMERICAN
CIVIL LIBERTIES UNION - 12-2-60 - Publ.

Tolson _____
 Mohr _____
 Parsons _____
 Belmont ☒
 Callahan _____
 DeLoach _____
 Malone _____
 McGuire ☒
 Rosen _____
 Tamm _____
 Trotter _____
 W.C. Sullivan ☒
 Tele. Room _____
 Ingram _____
 Gandy _____

Captioned report, covering the period 7-1-59 to 6-30-60, is published by the American Civil Liberties Union (ACLU), 156 Fifth Avenue, New York 10, N. Y. Following is a brief summary of the pertinent material contained in the report:

The ACLU Executive Director, Patrick Murphy Malin, points out in the report that there are three areas of current tension in which citizens can make their influence felt--civil rights for Negroes, separation of church and state, and the House Un-American Activities Committee. He urges the advancement of the first, the preservation of the second and the abolition of the third.

Part I of this report, entitled "Freedom of Belief, Expression and Association," deals with what the ACLU considers undue censorship of books, magazines, motion pictures, radio and TV; academic freedom; religion; and general freedom of speech and association. Regarding the protection of juveniles, the report stated, "The ACLU has long questioned whether there actually is such a causal relationship between reading and the commission of a crime," noting that there is a great difference of expert judgement on the matter.

Part II of the report, dealing with the topic "Equality Before the Law," generally endorsed lunch counter "sit-ins" and other legal measures being used by Negroes to win equality.

The FBI is mentioned on page 50 in the discussion of the Mack Charles Parker case. The report states that the ACLU had urged the Attorney General not to disclose the FBI report on the case as "...public disclosure... would be directly contrary to the constitutional principle that accusations against people are to be handled through the judicial process..."

Part III, entitled "Due Process Under Law," discusses various Supreme Court decisions regarding cases involving citizenship, deportation, alien

RLR:des
 (5)

ENCLOSURE

53 JAN 19 1961

ATTACHED

EX-117

REC-40

61-198-251
 12 JAN 16 1961
 CRIME RESEARCH

Jones to DeLoach memo

12-20-60

RE: REVIEW OF 40TH ANNUAL REPORT
OF THE AMERICAN CIVIL LIBERTIES UNION

rights and political asylum in addition to the topic of wiretapping and illegal police practices. In the latter topic, the case of Julius Szlajmer, a Polish seaman who sought political asylum, was discussed on page 57. It was related in this discussion that Szlajmer went to the FBI to ask asylum. No other mention of the FBI was made in this case.

In the discussion of the Carroll V. Jackson kidnaping case on page 58, the ACLU denounced the use of a telepathist in the attempt to solve the crime. They stated that "the FBI later arrested another man for the crime after more conventional police work."

Page 63 of the report noted that the U. S. Supreme Court had ruled that suspicion alone is insufficient grounds on which the FBI can make an arrest. This, according to the report, occurred in the case of John Patrick Henry who was charged with the unlawful possession of several cartons of radios inasmuch as the radios were not discovered until after the arrest.

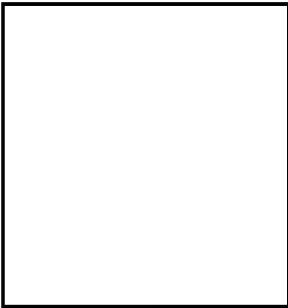
It is noted that no direct criticism was made by the ACLU in its reference to the FBI.

Bureau files reflect that we have had cordial correspondence with Malin in the past. The ACLU is, by its own statements, a liberal but anticommunist organization which in the past has done considerable sniping at the Bureau, mainly regarding wire tapping; however, contact and correspondence with its leaders has continued on a friendly basis. The ACLU has not been investigated by the FBI.

RECOMMENDATION:

For information.

*IPM
D. DeLoach
12/20*



PHOENIX, ARIZONA

January 5, 1961

DE

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b7C

Mr. Tolson	
Mr. Mohr	
Mr. Parsons	
Mr. Belmont	
Mr. Callahan	
Mr. DeLoach	
Mr. Malone	
Mr. McGuire	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. W.C. Sullivan	
Tele. Room	
Mr. Ingram	
Miss Gandy	

Handwritten notes and signatures:
Malone
Bureau
Shaw
Monahan
W.C. Sullivan

J. Edgar Hoover
 United States Department of Justice
 Federal Bureau of Investigation
 Washington 25, D. C.

Dear Mr. Hoover:

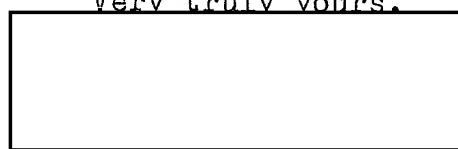
Your secretary's letter of December 27 has been received. I wish to thank you very much for the information that your personal attorney is not a member of the American Civil Liberties Union.

Mr. Leonard Hinds stated that your personal attorney was a member of the American Civil Liberties Union in his talk against the movie "Operation Abolition" at the Royal Palms School in Phoenix, Arizona, on November 29, 1960. In his speech he also used what I believe to be other arguments based on false premises and incorrect information. His actions are not isolated but are merely representative of a concerted effort by the American Civil Liberties Union to discredit the House Committee on Un-American Affairs and the F. B. I.

For your information and if possible any assistance you may give the patriots of this community, I enclose a copy of the letter which I wrote to the Honorable Francis E. Walters which lists the arguments used by Leonard Hinds. The information was taken directly from a tape recording of his speech.

Thank you very much for your kind assistance.
 With best wishes for a Happy New Year.

Very truly yours,



16 1961

EX - 102

ENCLOSURE

Handwritten notes:
 no further act
 we take 1-12
 JDL:CP
 Enclosure

280

63 JAN 19 1961

Handwritten signature

REC-26 61-192-852
 JAN 9 1961

December 22, 1960

Honorable Francis E. Walters
House Committee on Un-American Activities
House Office Building
Washington 25, D. C.

Dear Congressman:

This letter is concerning the movie "Operation Abolition" of the House Committee on Un-American Activities on the San Francisco riot of May 1960. Many civic-minded individuals and groups have been showing this movie in the Phoenix, Arizona, area and many people have been giving whole-hearted support to this film and to the very important message it has to convey to the American people. The success of this movie has been tremendous and it does an excellent job in shaking apathy loose from those who see it and starts many persons on the road to citizens' action to help stop the threat of internal subversion via Communism.

Its success has been felt by local Communist sympathizers and radical left-wingers. About one month ago, the American Civil Liberties Union laid plans to stop the movie in any way possible, especially by the use of propaganda to discredit the film.

On the evening of November 29, 1960, the movie was shown by the Parent-Teachers Association of Royal Palms School in the northern part of Phoenix, Arizona. The PTA voted to show the movie by only one vote and on the condition that one Leonard Hinds could be present to "give the other side." Leonard Hinds is an active member of the Arizona Civil Liberties Union, an affiliate of the American Civil Liberties Union, and teaches American government at Washington High School in Phoenix, and some evening classes in economics at Phoenix College. He is a former member of the Ohio State Bar Association and practiced law in Ohio.

There to speak in favor of the movie and present it to the group was a very able local attorney, Clarence Duncan.

After the film, Mr. Hinds spoke against the movie, using what I believe to be arguments based on false premises and incorrect information. This tactic is not isolated; everywhere the film is being shown it is being subjected to attack by the American Civil Liberties Union, using basically the same tactics used in this instance.

61-190-852
ENCLOSURE

December 22, 1960

My main purpose in writing you is to present the arguments being used against the film and to see if you can help to provide us with any documentation rebutting or counteracting the arguments and false information used by Leonard Hinds and the American Civil Liberties Union. This information would assist those who show the film in this area and provide us with a ready arsenal with which to counteract the attacks upon the movie "Operation Abolition."

Some of the arguments and innuendos used by Leonard Hinds in the name of the American Civil Liberties Union are outlined as follows:

1. That the American Civil Liberties Union opposes the film and what great things the American Civil Liberties Union has done in protecting the liberty of all Americans with supposed testimonial letters from the following persons, which compliment the American Civil Liberties Union on the work they are doing:
 - a. One from President Eisenhower congratulating the American Civil Liberties Union on its 40th Anniversary;
 - b. A letter from General Douglas MacArthur complimenting the American Civil Liberties Union;
 - c. A letter from General Clay to the same effect.
2. Assertion that one of J. Edgar Hoover's personal attorneys is a member of the American Civil Liberties Union.
3. The following questions were then posed to the audience to make them question the sincerity of the movie "Operation Abolition":
 - a. Who made the film?
 - b. Who paid for the film?
 - c. What is the footage of the original film as compared to the finished film?

December 22, 1960

- d. Who are the people who are pushing the film?
4. His next argument was that the film was made only to show the things that the House Committee on Un-American Activities wanted it to show and that the facts omitted in the film hide the truth.
5. Facts allegedly omitted by the film:
 - a. Hinds claims that the film fails to tell us that the riot was supported by:
 - (1) The Episcopal Diocese of California;
 - (2) The First Unitarian Church of San Jose;
 - (3) San Francisco Society of Friends;
 - (4) Berkeley YWCA;
 - (5) Northern California Board of Rabbis;
 - (6) East Bay Jewish Center;
 - (7) Over 700 faculty members from Stanford University, University of California at Berkeley, San Francisco State College and San Jose State College.
 - Hinds further claims that all these protests from these groups against the House Committee on Un-American Activities are a matter of public record.
 - b. Hinds asserts that the film fails to tell of police brutality and that shots were carefully deleted from the film. As support for this, he cited the following "authorities" and made the following statements:
 - (1) Quote from New York Post correspondent to the following effect: "Never in twenty years as a reporter have I seen such brutality."

December 22, 1960

- (2) The following publications also reported that the police activity was unduly brutal: The San Francisco Chronicle; The New York Times; The Front Pier; The Californian (University of California at Berkeley paper); and The Oakland City News.
- (3) That the Graduate and Psychological Association on the Berkeley campus called on Governor Brown for an investigation into the police brutality.
- (4) That the State Attorney General, Stanley Mosk, was asked by sixty-five University of Stanford faculty members for an impartial investigation into police activities during the riot.

c. The American Civil Liberties Union and Hinds also say that:

- (1) The film was edited and part of the original film sound track was deleted and parts of the original film, which disproved what the edited film asserts, were not provided;
- (2) According to news moderators of KPIX (?), one of the television stations in San Francisco which made the original film, the original "unedited" film showed proof of the deletions from the movie "Operation Abolition" and show that the movie distorts the truth and "brings into serious question the honesty of the members of the House Un-American Activities Committee who, by their appearance in the film, endorse its assertions."

6. Hinds and the American Civil Liberties Union go on to assert that some additional events the film attempts to assert are misleading or untrue; for one, the film leads the viewers to believe that the heart

December 22, 1960

attack of a sixty-one year old policeman was caused by the students knocking him down. Secondly, the film leads viewers to believe that the students invited the fire hoses by leaping the barricades and attacking another policeman by striking him with his own billy club. Thirdly, the film is committing an "outrageous perversion of truth" by charging that the attempts by the police to contain the demonstrators were met by jeers and boos.

For his proof that the above are true, the American Civil Liberties Union via Hinds offers the following:

- a. There are no pictures in the film of the above events;
- b. There are no witnesses who can verify the above events;
- c. There are sworn affidavits to the contrary;
- d. There are photographs to the contrary;
- e. There are on-the-spot recordings to the contrary which dispute the film sound track;
- f. No persons were arrested for assaulting the barricade;
- g. Public records clearly show that the film's assertions are not true;
- h. The film takes events out of context;
- i. The film doesn't give the sound track of events it portrays on the screen, for if it would, it would show that the requests of the law enforcement officers were complied with by the students;
- j. The Sheriff of San Francisco County testified over public telecast on Kued Television in San Francisco as follows: "There was absolutely no evidence that the students used any physical violence whatsoever."

- k. There were no film shots of the alleged "rush of the students over the barricade during the time which the policeman was beaten." Hinds says that the reason that there were no such films shot is that none exist, all the pictures taken show the students did not disturb the barricade; for instance, in the May 23, 1960, issue of Life magazine the pictures show so. Pictures, eye-witnesses, affidavits and recordings all testify that the hoses were turned on before the barricades were disturbed.
7. The film fails to show what really went on inside the hearing room. It shows attempts at preventing witnesses to read their statements, but friendly witnesses were allowed to read theirs. The film fails to inform the viewers that the sound track of the film made inside the hearing room was a composite track made of several tapes taken inside and outside the hearing room.
8. While Hinds and the American Civil Liberties Union do not condone the conduct of Archie Brown, et al., anywhere, the conduct of the Committee on many occasions provoked non-Communists, who were there by the thousands--"good American youth who protested the House Committee on Un-American Activities."
9. Hinds asserts that the subpoenas were served on most of the teachers in their classrooms, in front of their students.
10. The prior postponement of the hearings in June of 1959, and their cancellation in August 1959, show that the House Committee on Un-American Activities was fishing in the dark, so to speak.
11. Hinds and the American Civil Liberties Union assert that the files of the House Committee on Un-American Activities on the various teachers were turned over to the local authorities (local school boards) and the following were the results:
 - a. The State Attorney General, Mosk, said the files were worthless as evidence against the teachers involved;

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- b. Supposedly quoting from various editorials in "non-Communist" newspapers in the area and the Santa Clara School Board and the Bellmont School Board to the effect that the "school boards determined that the reports did not require any type of action" and that the whole affair was a "tempest in a teapot."
 - c. All but two school boards refused to have hearings. Of the two that had hearings, one teacher was cleared and the other school board's results were not made public, but the teacher still has his job.
12. A few other "authorities" used by Hinds to argue his case against the House Committee on Un-American Activities are here listed but are not too important:
- a. He read from a book entitled "The Loyalty of a Free Man," wherein the author attacks the House Committee on Un-American Activities;
 - b. Quoted from editorials by Episcopal Bishops of California in their paper "The San Francisco Chronicle." The editorials were entitled "Methods Which Outrage the Public Conscience" and the editorials attacked the House Committee on Un-American Activities' methods;
 - c. Alleged that in 1959 the House Committee on Un-American Activities accused the National Council of Churches of being Communist dominated and such fact is not provable in a court of law;
 - d. He quoted from a speech by James Roosevelt entitled "Dragon Slayers";
 - e. He read a portion of the Supreme Court dissent in the Watkins v. United States case which speaks disparagingly of the House Committee on Un-American Activities.

The above is typical of the type of propaganda throughout this State to discredit this movie. The American Civil Liberties Union is in the forefront of the attack. The patriotic

Honorable Francis E. Walters

- 8 -

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citizens of this State will assist always in the fight against Communism and against the attempt to destroy the House Committee on Un-American Activities and other security committees and agencies of our government.

Request is herein made to arm us with sufficient facts to counteract the above-outlined vicious propaganda.

This letter has been, of necessity, a lengthy one. Thank you for your patience.

Yours very truly,

[Redacted Signature]

b6

b7c

JDL/hf

[Redacted Address]

Phoenix, Arizona

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Malone

DATE: 12/9/60

FROM : H. L. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION
CRIMINAL LAW SECTION
INQUIRY FROM LAWRENCE SPEISER
DIRECTOR, WASHINGTON OFFICE OF
AMERICAN CIVIL LIBERTIES UNION
(ACLU)

Tolson _____
Mohr _____
DeLoach _____
Belmont _____
Callahan _____
Malone _____
McGuire _____
Rosen _____
Tamm _____
Trotter _____
W.C. Sullivan _____
Tele. Room _____
Ingram _____
Gandy _____

On 11/28/60, I received a phone call from Rufus King, past Chairman of the American Bar Association, Criminal Law Section, and currently its Section Delegate to the ABA House of Delegates. King said he had in his office at the time Mr. Lawrence Speiser, Director of the Washington Office of the American Civil Liberties Union. King stated that Speiser had brought to his attention a number of pamphlets put out by various local Bar Associations in a number of jurisdictions on the rights of arrested persons. Some of these had been prepared in collaboration with the local office of the American Civil Liberties Union. King stated that this seems to be an area where the Bar Association can do some good and he had the idea that such a project might be something very worthwhile for the Criminal Law Section to sponsor.

King's purpose in calling me was to inform me of this activity on the part of Speiser and to invite me as FBI liaison representative to the ABA and an officer of the Criminal Law Section, to join a committee sponsored by the Criminal Law Section for the purpose of inquiring into what might be done on this subject. King mentioned that Thurman Arnold and Massachusetts State Attorney General Edward McCormack, Jr. were members of this committee. King commented that he realized the law of arrest varied somewhat from jurisdiction to jurisdiction but nevertheless he felt it might be possible for the Criminal Law Section to at least study this matter with the objective of endorsing in principle the preparation of pamphlets to guide citizens concerning their general rights when they are arrested.

EX-113 REC-35

61-190-453

I told King that certainly we in the FBI were interested in the rights of individuals who were arrested but we were also interested in seeing that the rights of society were protected against the criminal and that those guilty of crimes were punished. I therefore, told him I would be unable to commit myself to membership in this committee until I had an opportunity to find out a little more about what Speiser had in mind. King said he certainly agreed with that. He then put Speiser on the telephone who introduced himself and told me that he would send me a number of representative pamphlets which had been put out by various state jurisdictions, and after I had an opportunity to look them over, he would appreciate a chance to discuss this project in further detail with me.

Enclosure

1 - Mr. DeLoach 1 - Mr. Rosen 1 - Mr. W. C. Sullivan

HLE:wmj, smm, nev (6)

Memo from Mr. Edwards to Mr. Malone 12/9/60
Re: ABA Criminal Law Section

Since then I have received in the mail ten sample pamphlets (attached). All follow the same general pattern. They are directed to individual citizens and they attempt to answer in general terms such questions for those who are arrested as "What are your rights?", "What can you do?", "Where can you get help?", "What does the law say you cannot do?", "Must the policeman have a warrant?", "Can the policeman use force to arrest?", "Do you have to answer questions?", "Can you notify your family?", "Can you be released on bail?", "When and under what circumstances can you and your premises be searched with or without a warrant?", and the like. Generally speaking, they give an accurate but general summary of the rights of an arrested person. In one or two minor respects they seem to be slanted against law enforcement by failing to give a complete picture. For example, one of them in answering the question "Can your house be searched without a warrant?" fails to mention the normal right of search incidental to an arrest. By coincidence, the SAC at Boston under cover letter 11/28/60 forwarded a copy of the pamphlet prepared by Attorney General McCormack of Massachusetts entitled, "If You Are Arrested." The preface states it is issued as a public service in cooperation with Boston Bar Association and Civil Liberties Union of Massachusetts. McCormack's pamphlet appears the most complete and objective. McCormack also is preparing a guide for law enforcement officers of Massachusetts inasmuch as it was felt that the emphasis in the pamphlet, "If You Are Arrested," related to the rights of the person arrested and did not adequately set forth the authorities, responsibilities and powers of the police officers. McCormack's primary purpose is to give officers basic guides to prevent making mistakes which would throw their cases out on appeal because of present-day tendencies of the appellate courts in zealously protecting the rights of individuals who are arrested for crimes. McCormack is a friend of law enforcement and not a bleeding heart.

Bureau files ^{show} reflect Speiser was counsel for the ACLU in Northern California ¹⁹⁵²⁻¹⁹⁵⁷ from 1952 to 1957. He succeeded Irving Ferman as head of the Washington ACLU office ¹⁹⁵⁴ approximately a year ago. As might be expected from his position, we have information that he was either counsel for or advised various individuals with subversive backgrounds or who refused to sign loyalty oaths. He defended many individuals who were either Communist or pro-Communist, many of whom have been the subject of Bureau cases and Security Index subjects. He represented individuals called before the House Committee on Un-American Activities in its San Francisco hearings ^{on} concerning Communist activities in 1953 and 1956. He accompanied Clinton E. Jencks 7/22/59 ^{as Jencks' attorney} when Jencks testified before the HCUA in Washington, Speiser being in the capacity of his attorney at the time. Our San Francisco Office had limited contacts with Speiser but he was apparently cooperative on those occasions. On the Director's instructions, the Bureau discreetly alerted the HCUA when Speiser was designated head of the ACLU Washington Office. ^{see attached.}

There are pros and cons as to whether or not the Bureau should take advantage of an opportunity to serve on this committee. Whether the Bureau serves on the

Memo from Mr. Edwards to Mr. Malone 12/9/60
Re: ABA Criminal Law Section

committee or not, it is likely the committee will proceed as scheduled and endeavor to get the Criminal Law Section of the ABA to endorse the idea of a pamphlet outlining the general rights of individuals when arrested. Realizing also the sympathy which the present ABA President, Whitney North Seymour, has for civil liberties and individual rights, it is a safe bet that he would put his stamp of approval on such a committee. Furthermore, with all present-day emphasis on individual's rights, even in the U.S. Supreme Court, considerable support for the general idea behind these pamphlets would not be hard to find. The specific advantages of Bureau representation of this committee would be: (1) We would be able to exert our influence to insure any proposed pamphlet would be objectively stated rather than slanted against law enforcement; (2) We would not be placing ourselves in a position where such articulate groups as the ACLU could say that they gave the Bureau opportunity to cooperate with such a committee and the Bureau refused; (3) by participating in this committee, we would be able to specifically point to such cooperation as positive proof of the fact that the Bureau has always stood for equal protection of and regard for the constitutional rights of the accused; and (4) we might be able to insist that if the committee wants to prepare and foster a pamphlet dealing with the rights of the accused, it should, at the same time, bring out a corollary pamphlet dealing with the rights of law enforcement and society against the accused.

know your rights Pamphlet
MINN
MINN
In view of Speiser's unsavory background, it would appear undesirable for the Bureau to get involved in any committee with him. However, it would seem wise to find out a little more about how far he has progressed with this idea and exactly what he has in mind. I could do this by having a personal get-together with him as he suggests, under the guise of getting a little more information on just what the committee setup would entail. This meeting would, undoubtedly, provide ample basis for declining participation in the committee without giving Speiser any ammunition to use against the Bureau.

RECOMMENDATIONS:

pamphlets
IF YOU ARE ARRESTED
WASH. RAILROAD, N.Y.
That I be authorized to meet with Lawrence Speiser as he requests for the purpose of exploring further with him specifically what he has in mind as to the scope and complete objectives of this committee, and with a view to laying the groundwork for diplomatic Bureau refusal to participate in any such committee.

ERC 12/15
12/15
12/12
WLR
12/15
I don't think we should have anything to do with Speiser

C C
8 pamphlets

Submitted as enclosures to memo H. L. Edwards to Mr. Malone 12/9/60.
re ABA, Criminal Law Section, Inquiry From Lawrence Spelzer, Director,
Washington Office of American Civil Liberties Union (ACLU)
NLE:wni:smr:hcy

ENCLOSURE

41-190-853

be given a copy of it; (3) to hear the witnesses in support of the charge and to ask them questions; and (4) to refuse to speak at all.

At *trials* you have additional rights. (1) You may plead "guilty", "not guilty" or "no defense." (2) You may tell your side of the story. (3) You may have your own witnesses testify. (4) If the magistrate finds you guilty, he must tell you exactly what you have been found guilty of, and what the penalty is.

If you are denied any of these rights and are fined or imprisoned, you have grounds for appeal, but you must appeal within ten days. Consult a lawyer right away.

DO YOU NEED A LAWYER?

It is a good idea to have a lawyer with you when you are taken before the magistrate, whether you are innocent or guilty. Even a *summary offense* can carry severe punishment. A lawyer can be of great help to you. He can help you get a fair hearing; he can advise which questions to answer and how much to say—to prevent you from making trouble for yourself later. He can help see that bail is not set too high.

Between the time you are arrested and the magistrate's hearing, you should try to find a lawyer. If you have not been able to find one by the time you are brought before the magistrate, you can ask the magistrate to put off the hearing until you have a lawyer.

If you do not know how to find a lawyer, you can ask the local bar association or legal aid society.

If you do not have enough money to hire a lawyer, you have the right to have the magistrate or court appoint one for you.

AMERICAN CIVIL LIBERTIES UNION

South Jersey Chapter of Greater Phila. Branch

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July, 1959



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If You Are Arrested...

- *What Are Your Rights*
- *What Can You Do*

Arrest is taking a person into custody for some official purpose, generally so he may be held to answer for a crime. If you are arrested, you have rights which protect you from unfair pressure, whether or not you are innocent. The policeman who arrests you also has his job to do. It is not an easy one. You must respect him. He stands for law and order and has a duty to his community. What are your rights? Here are some answers.

YOU AND THE POLICEMAN

Can You Be Arrested Without a Warrant?

Yes, if the policeman sees you commit the crime. Also, in cases of *high misdemeanors* (robbery, larceny, and other very serious crimes) he can arrest you without a warrant though he did not see you commit the crime, if he knows the crime was committed and has reason to think you did it.

In cases of less serious crimes, called *misdemeanors* (gambling, possession of untaxed alcohol, obtaining property by false pretenses, etc.) and *summary offenses* (speeding, disorderly conduct, violating municipal ordinances, etc.) the policeman must have a warrant to arrest you unless he saw you commit the crime.

Can Your House Be Searched Without a Warrant?

Generally, a policeman must have a search warrant before he can search your house. The warrant must describe the place to be searched and the thing to be searched for. But, if you consent to a search without a warrant, it is lawful.

What If You Are Innocent?

It is a crime to resist an officer who arrests or searches you lawfully. If you resist a lawful arrest,

the policeman can use all necessary force to arrest you. He can break a door or window to serve a warrant if you refuse to admit him. After you have been restrained, he cannot continue to use force.

YOUR RIGHTS IN THE POLICE STATION

You will be taken to a police station. Before questioning you, the police must tell you the charge. They have the right to fingerprint and photograph you and to search your person. They must give you a receipt for all money and property taken from you. They must let you telephone a lawyer.

Do You Have to Answer Questions?

If you are innocent, it is advisable for you to deny your guilt when questioned. Otherwise, your silence may later be taken by a court to be an admission of guilt. It is your right, under the Constitution, to refuse to say anything that may be used against you later. After giving the police your name, you may not be forced to answer any questions or sign any paper about a crime. Neither a uniformed policeman, a plainclothesman nor anyone else may force you to do this. If any force or threats are used against you, report it to the County Prosecutor or to your own lawyer.

What About Tests?

You may not be forced to take a lie detector test and you should be careful about asking to take one. Lie detectors are only effective in the hands of skilled operators. They can make mistakes.

If you are charged with drunken driving, you may be taken to a doctor's office for examination. However, you cannot be compelled to submit to a blood test or a Drunk-O-Meter without your consent.

Can You Be Released on Bail?

You have the right to be allowed to apply promptly for bail. Bail permits you to be released from jail if an amount of money or other security is deposited with the proper official to make sure you will appear in court. The magistrate before whom you are taken for preliminary hearing may fix the bail, (or

the clerk of the magistrate's court may admit you to bail). In cases of certain *high misdemeanors*, only a County or Superior Court judge can fix bail. If the amount of bail is unreasonable, you may ask the Court to reduce the bail. If you, your family, or friends are unable to put up bail, either in the form of money or real property, a bondsman or insurance company may do it for you—for a fee.

IN THE MAGISTRATE'S COURT

After arrest you must be taken before a magistrate without unnecessary delay. When you cannot be taken before the magistrate at once, the police have the right to place you in the county jail or some other place of confinement pending hearing.

What Does the Magistrate Do?

If you are charged with a *summary offense*, the magistrate will hold trial and decide whether you are innocent or guilty. If he finds you innocent, he will order you released; if guilty, he may fine you or sentence you to jail.

If you are charged with a *high misdemeanor*, or a *misdemeanor*, the magistrate will hold a *preliminary hearing*. He will *not* decide whether you are innocent or guilty, but only if there is a reasonable basis for believing that you may be guilty. If he does find a reasonable basis, he will hold you for action by the grand jury and trial by the County Court. Otherwise, he will order your release.

At some *preliminary hearings*, if you are charged with a *misdemeanor*, you can permit the magistrate to try the case, rather than wait for the grand jury and trial by the County Court. If you do this, the magistrate will hold trial, just as he does in the *summary offense* cases. You should be careful about giving the magistrate permission to do this. Sometimes it is a good idea; sometimes not.

What Are Your Rights

Before the Magistrate?

At all *trials* and *preliminary hearings* you have the right (1) to be represented by a lawyer; (2) to be told exactly what the charge against you is and

If you are denied any of these rights and are fined or imprisoned, you have grounds for having the conviction reversed. Consult a lawyer promptly.

Bail: If the magistrate holds you for court, you have the right to be allowed to apply promptly for bail. Bail permits you to be released from jail if an amount of money or other security is deposited with the proper official to make sure that you will appear in court. The magistrate will fix the amount of bail you must put up. The amount must be reasonable. If it is excessive, your lawyer or a member of your family may ask a court of record to reduce the bail. Consult a lawyer about this. If you are charged with the most serious felonies, such as robbery, burglary, or murder, the magistrate cannot permit or set bail. But on application, a judge of the Quarter Sessions Court can set bail in these cases (except where the facts clearly indicate first degree murder.)

If you, your family, or friends are not able to put up the bail, a bondsman will do it for you, for a fee. The legal maximum fee in Pennsylvania is 8 percent of the amount of the bail.

DO YOU NEED A LAWYER?

Even if you are charged only with a summary offense, it may carry a very severe punishment. So it is a good idea to have a lawyer with you when you are taken before a magistrate, to help you get a fair hearing—whether you are innocent or guilty. And if the magistrate holds you for court on a misdemeanor or felony, a lawyer can be of great help to you. For instance, he can advise you which questions to answer, and how much to say—to prevent you from making trouble for yourself later on. And he can help see that bail is not set too high.

So between the time you are arrested and the time you are brought before the magistrate you should try to find a lawyer. If you have not been able to get one by the time you are brought before the magistrate, you can ask the magistrate to allow you some more time to send for a lawyer, and to put off the hearing until he arrives. If you do not know how to find a lawyer, you, your friends or family, can ask the Lawyer Reference Service to recommend one. Their address is 4 S. 15th St.

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March 1959



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If You Are Arrested...

- *What Are Your Rights*
- *What Can You Do*

Arrest is taking a person into custody for some official purpose, generally so that he may be held to answer for a crime. If you are arrested, you have rights which protect you from unfair pressure, whether or not you are innocent. The policeman who arrests you also has his job to do. It is not an easy one. You must respect him. He stands for law and order and has a duty to his community. What are your rights if you are arrested? Here are answers to some questions you may have about these rights.

YOU AND THE POLICEMAN

You have the right to ask the policeman why he is arresting you. But you will make unnecessary trouble for yourself by being fresh or noisy.

Arrests

There are three kinds of crimes for you might be arrested: *Felony* is the name of the most serious kind. Less serious violations are called *misdemeanors*, and the least serious are *summary offenses*. A policeman does not need a warrant to arrest you for a *felony* if he sees you commit it, or try to commit it, or if he has reason to believe that a felony has been committed and has reason to think you did it. A policeman does not need a warrant to arrest you if he *sees* you commit a *misdemeanor* or *summary offense*. But he must have a warrant to arrest you for a misdemeanor or summary offense he did not see you commit.

A *warrant* is an order signed by a magistrate or judge. It is made on a complaint by someone. An arrest warrant charges that you committed a crime. The warrant must list the charge against you. It must also direct the policeman to make the arrest and to bring you before a magistrate or a judge. If you refuse to admit an officer, he may break open a door or a window to serve a warrant.

Searches

Generally, a policeman must have a search warrant before he can search your house. The search

warrant must describe the premises to be searched and the thing to be searched for. But of course if you consent to a search without warrant it is legal.

What if You Are Innocent?

Even if you think you are not guilty, it is a crime to resist an officer who arrests you legally. If you resist a lawful arrest, a policeman can use all necessary force to arrest you.

If You Think Your Rights Are Violated

If you think your rights have been violated by the police, you should consult a lawyer about legal remedies, or complain to the Police Department. If you are dissatisfied with the way the Police Department handles your complaint, you may complain to the Mayor's Police Review Board, which is made up of citizens especially appointed to handle complaints against the police. The office of the Police Review Board is in City Hall.

YOUR RIGHTS IN THE POLICE STATION

You will be taken to a police station, where a record of your arrest and the charge against you must be reported without unnecessary delay in the "arrest book." Before questioning you, the police must tell you the charge. In Philadelphia, the police have the right to fingerprint and photograph you.

You Have the Right to Telephone.

The Philadelphia police regulations say that you have the right to telephone your family, friends, and lawyer as soon as you arrive in the station house and have been "booked." If you have no money to use the pay phone, the police must let you speak over the police phone if you request it. (This right is given you in the Police Department's Directive 96, of September 5, 1958).

What Happens to Your Money?

You must be given an itemized receipt for all money and property taken from you when booked.

Answering Questions.

It is your right, under the Constitution, to refuse to say anything that may be used against you later. After giving the police your name, you may not be forced to answer any questions or sign any paper about a crime. Neither a uniformed policeman, a plainclothesman nor anyone else may force you to do this. If any force or threats are used against you, report it to the District Attorney, or to your own lawyer. You may not be forced to take a lie detector test. And you should be careful about asking to take one. Lie detectors make mistakes sometimes by

showing that a person is "guilty" when he is really innocent.

Getting Out on a Copy of the Charge

For some minor offenses, you can be released from the police station until your magistrate's hearing the next morning. In such cases, any friend, member of the family, or lawyer, will be given a "copy of the charge" at the police station. This copy can be taken to any magistrate to be signed, usually without security. There is a list of magistrates with their phone numbers in every police station. This signed copy will get you released until your hearing next morning. The law says that a magistrate must be available at all times to sign a copy of the charge, so your friend or lawyer should not hesitate to call any magistrate even in the middle of the night. If no magistrate can be found who is willing to sign the copy, you should report this to the American Civil Liberties Union.

When Do You Go Before a Magistrate?

After arrest and booking, you must be taken before a magistrate or judge without unnecessary delay. In Philadelphia, this should be within 25 hours of your arrest.

IN THE MAGISTRATE'S COURT

What Does the Magistrate Decide?

If you are charged with a felony or a misdemeanor, such as larceny or numbers writing, the magistrate does *not* decide whether you are guilty or innocent. He only decides whether there is a reasonable basis for believing you committed the crime. If he thinks that there is a reasonable basis, he will hold you for court.

If you are charged with a summary offense, such as disorderly conduct or intoxication, the magistrate himself will decide the case. He will either discharge you or find you guilty.

Your Rights Before the Magistrate

In any kind of case before the magistrate, you have the right (1) to be represented by a lawyer, (2) to be told exactly what the charge against you is, (3) to hear witnesses in support of the charge, and (4) to refuse to speak at all.

In summary offense cases, which the magistrate himself decides, you have additional rights. (1) The magistrate must ask you whether you plead guilty or innocent. (2) You may tell your side of the story if you wish. (3) You may have your own witnesses. (4) If the magistrate finds you guilty, he must tell you exactly what you have been found guilty of, and exactly what the penalty is.

III. YOUR RIGHTS IN COURT

When Do You Go Before a Justice of the Peace?

After arrest and booking, you must be taken before a Justice of the Peace without unnecessary delay. If a Justice of the Peace is not sitting at the time of your arrest, you may be held in a police station until the next court session.

Should You Have a Lawyer With You?

If possible, you should have a lawyer with you when you are taken before the Justice of the Peace. The Justice of the Peace must tell you the charge against you. He must inform you of your right to have a lawyer if you do not have one, and he must allow you a reasonable time to send for a lawyer. If you ask, he must put off the hearing so that you can get a lawyer.

What If You Cannot Afford a Lawyer?

If you are charged with a felony and you cannot pay for a lawyer, ask the court to appoint one. In this State the court, at the time of your first appearance in Superior Court, is required by law to appoint a lawyer if you have no means to pay for one.

What Does the Justice of the Peace Decide?

If you are charged with a felony the Justice of the Peace may hold a preliminary hearing at which witnesses are examined, and you have the right (but not the obligation) to testify. You can ask that this hearing be adjourned until your lawyer can be present. If you are charged with a misdemeanor the Justice of the Peace may have you tried before him and either dismiss the charge or find you guilty. Where a hearing is held on a felony charge before a Justice of the Peace, the Justice of the Peace can only decide whether or not there is a reasonable basis for finding that you committed the felony charged.

AMERICAN CIVIL LIBERTIES UNION
WASHINGTON STATE CHAPTER
1114 Thirty-seventh Avenue North
SEATTLE 2, WASHINGTON



IF YOU ARE ARRESTED...

- ★ *What are your rights?*
- ★ *What can you do?*
- ★ *Where can you get help?*
- ★ *What does the law say you cannot do?*

This statement, the result of many months of research and consultation with experts in the field of police practices, was originally issued as a public service by the Bar Association of the City of New York and the New York Civil Liberties Union. It has been edited by the national office of the American Civil Liberties Union to make it more generally useful throughout the United States. It has been edited further by the Washington State Chapter of the ACLU to conform with the laws and practices of the State of Washington.

IF YOU ARE ARRESTED...

What Are Your Rights?

The law says that arrest is "taking a person into custody so that he may be held to answer for a crime." If you are arrested, you have rights which protect you from unfair pressure. The policeman who may arrest you also has his job to do, and you must respect it. He stands for law and order, and he has a duty to his community.

What are *your* rights if you are arrested? Here are answers to some questions you may have about these rights. Read them carefully so you will know your rights if you are arrested.

I. THE ACT OF ARREST

What If You Are Innocent?

Even if you think you are not guilty, it is a crime to resist an officer who arrests you lawfully. Respect him. Do not talk back or be disorderly. If it turns out that you have been arrested illegally, you can sue the policeman for false arrest. But remember: If the arrest

was a lawful one, the fact that you are innocent does not give you the right to collect damages. The following answers tell you how to get help to answer the charge and to protect your rights—whether you are innocent or not.

What Can You Be Arrested For?

There are two kinds of violations for which you might be arrested: *Felony* is the name for the most serious violation, for the commission of which you may be sent to the penitentiary or reformatory. Less serious violations are *misdemeanors*, for which you may be sentenced to the County Jail for a period not to exceed one year.

When Can You Be Arrested?

A policeman may arrest you without a warrant:

1. If he sees you commit a violation of the law—or if he sees you *try* to commit one.
2. If someone committed a felony and if the policeman has reason to believe you did it, even if he was not there at the time.

Must the Policeman Have a Warrant?

In most situations a policeman must have a warrant to arrest you for a misdemeanor, if he did not see you do it himself. He does not need a warrant to arrest you for a felony.

What Is a Warrant?

A warrant is an order signed by a Justice of the Peace or a judge. It is made on a complaint by someone, and it charges that you committed a crime. The warrant must list the charge against you. It also must direct the policeman to make the arrest and to bring you before a Justice of the Peace or a judge.

Can the Policeman Use Force to Arrest You?

If you resist a lawful arrest, the policeman can use all necessary force to arrest you. However, after you have been restrained, he cannot continue to use force.

An officer may break open a door or a window to make a lawful arrest or to serve a warrant if you refuse to admit him.

II. YOUR RIGHTS IN THE POLICE STATION

What Happens After You Are Arrested?

You are taken to a police station, where a record of your arrest and the charge against you must be reported without unnecessary delay in the "arrest book." Where required by law, you will be fingerprinted and photographed.

Do You Have to Answer Questions?

It is your right, under the Constitution, to refuse to say anything that may be used against you later—and to have the aid and advice of a lawyer at all times. After identifying yourself, you do not have to answer any questions or sign any paper about a crime. Neither a policeman nor anyone else may force you to do this. If any force or threats are used against you, report it to the court, to the District Attorney and to your own lawyer. You should also report promptly to the court any injuries and bruises suffered after arrest.

The promise of a policeman to help you or to intervene with the court, in exchange for a confession, is *not* binding.

Can You Notify Your Family or Lawyer?

You are entitled to have one telephone call made or message delivered to your family or lawyer. The police must do this promptly if you request it.

What Happens to the Money You May Have With You?

You must be given an itemized receipt for all money and property taken from you when you are booked.

Can You Be Released on Bail?

You have the right to be allowed to apply promptly for bail. *Bail* permits you to be released from jail, if an amount of money or other security is deposited with the proper official to make sure that you will appear in court. For some minor offenses, the police may release you on bail. In other cases, a judge fixes the amount of bail, and you have a right to be brought before him without unnecessary delay. If you are charged with a very serious crime, such as murder or kidnapping, bail may not be permitted.

How Can You Get Bail?

Bail is obtained through bail brokers. In the City of Seattle charge for a minimum amount of bail usually is \$25.00 to \$30.00, and if the bail required is \$500.00 or more the usual charge for a bail bond is ten (10%) per cent of the amount of the bail fixed by the court.

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Malone

DATE: 12/28/60

FROM : Mr. Edwards

SUBJECT: AMERICAN BAR ASSOCIATION
CRIMINAL LAW SECTION
INQUIRY FROM LAWRENCE SPEISER
DIRECTOR, WASHINGTON OFFICE OF
AMERICAN CIVIL LIBERTIES UNION
(ACLU)

Tolson _____
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Reference is made to my memorandum of 12/9/60, reporting that Lawrence Speiser, Director of the Washington Office of the American Civil Liberties Union, desired me to cooperate with a committee sponsored by the Criminal Law Section of the American Bar Association, the purpose of which would be to conduct research with a view to sponsoring a model pamphlet summarizing the rights of arrested persons. Mr. Tolson indicated "I don't think we should have anything to do with Speiser." Speiser has not contacted me since his initial call of 11/28/60. The way he left it with me was that he would send me a number of representative pamphlets which had been put out by various state jurisdictions and after I had an opportunity to look them over he wanted a chance to discuss this project in further detail with me. Since the next move was up to him, I have not contacted him and in accordance with Mr. Tolson's views I will have nothing to do with him.

However, I do wish to report that on 12/28/60 I was discussing some other business of the Criminal Law Section with its chairman, Brigadier General Charles L. Decker, Jr. I mentioned this committee to General Decker. He said that despite the fact that Rufus King had done most of the leg work in setting up this committee, Decker was familiar with it. He said that it was a 3-man committee, consisting of Speiser, Thurman Arnold and Massachusetts Attorney General, Edward McCormack, Jr. Speiser is nominally chairman, but Decker said all three men are pretty much acting as cochairman. I told General Decker of my call from Rufus King and Speiser and I told him that I did not want to have anything to do with this committee. General Decker appreciated my call; however, he said that he didn't want me to misunderstand his motives in sanctioning such a committee; he wanted me to understand that he had not suddenly "gone soft." He said he has been attacked by the ACLU probably as much as anybody else and he has little sympathy for many of the things they do. However, General Decker did feel that one way to know what a group like this is doing and to be able to control it is to bring them under his wing. He said that any pamphlet that they propose will certainly get a "fine-tooth comb" going over by the Criminal Law Section and it will be a solid, impartial.

57 JAN 23 1961
1 - Mr. DeLoach - 102/13
1 - Mr. W. C. Sullivan
HLE:meh (5)

JAN 18 1961
52
JAN 17 1961

UNRECORDED COPY FILED IN 94-1-389-1

Memo to Mr. Malone
Re: ABA

objective piece of work before it comes out of the committee.

General Decker did state that he felt it might be helpful to law enforcement if some of the accused did understand the limits of their rights and privileges when they are arrested. I told General Decker this might be so. I also told him, however, that if they were going to put out a "bible" enumerating the rights of the accused, why wouldn't there also be a need for a counterpart in the form of a manual to guide the arresting officer. General Decker said there was no reason he knew why this wouldn't be a good idea. But he said both pamphlets need not come out simultaneously and one could follow the other. He felt there might be a greater need for a pamphlet on the rights of the accused because he said it is reasonable to expect that law enforcement officers pretty well know what their rights and responsibilities are. I told him this was not always so because in some of the smaller local law enforcement agencies, unfortunately the pay and training were not adequate to guarantee knowledgeable officers and consequently there was the same risk of their floundering at the time of arrest and jeopardizing the case on appeal because of some due process oversight or other infringement of constitutional guarantees.

It appears, therefore, that the committee is a going concern. I told General Decker that although I did not want to be included on the committee, I would certainly want to follow very closely the work of this committee so that we could protect law enforcement's best interests. He agreed.

ACTION:

None informative.

ABM
11/30
76W

January 9, 1961

61-190-855
Mr. Patrick Murphy Malin
Executive Director
American Civil Liberties Union
156 Fifth Avenue
New York 10, New York

Dear Mr. Malin:

I have your letter of December 30, 1960, wherein you make further observations concerning dispositions for arrest fingerprints submitted to the FBI by local law enforcement agencies.

As I pointed out in my letter of June 29, 1960, whenever a local arresting agency requests the return of a fingerprint card or the deletion of information with respect to any particular arrest, we abide by the wishes of that department. In your letter of December 30, you stated that "this procedure recognizes the need to treat individuals fairly."

You further indicated that your Due Process Committee concluded that it should be the obligation of the Federal Bureau of Investigation to take affirmative action to see that the final disposition of each case is recorded in its files. Likewise, you concluded that this Bureau should forcefully urge all local law enforcement agencies to provide promptly information concerning the final disposition in all cases and in instances where the local law enforcement agency does not do this, then the FBI should make individual inquiry whenever the ultimate disposition of a case has not been recorded. As I have indicated in previous correspondence we have repeatedly urged all fingerprint contributors to furnish the final disposition of arrests in individual cases so that this information might be entered on the individual's identification record. Indeed as recently as September 1, 1959, I sent a letter to all of our fingerprint contributors reiterating this and reminding them that disposition data served to complete the case history of the offense for which the individual was originally arrested.

1 - Mr. DeLoach, Room 5640

Cover memo R. C. Anderson to Trotter, same date captioned:
PATRICK MURPHY MALIN, EXECUTIVE DIRECTOR, AMERICAN CIVIL
LIBERTIES UNION (ACLU) - INQUIRY RE FBI IDENT RECORDS
RCA:pam

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Rosen
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MAIL ROOM ☐

TELETYPE UNIT ☐

Mr. Patrick Murphy Malin

In addition, provision has been made to print a notation on new FBI identification records as prepared in the future calling attention to the fact that the information shown on the identification record represents data furnished the FBI by fingerprint contributors and, where a final disposition is not shown or further explanation of the charge is desired, the recipient should communicate with the agency contributing the fingerprints.

I heartily agree with your observation that individual inquiries as to the ultimate disposition of all cases would increase this Bureau's work. During the last fiscal year our Identification Division received over two million arrest fingerprint cards. It would be a physical impossibility for this Bureau to individually follow on each of these arrest cases. We have neither the man power nor the facilities for such.

You may be sure that we will continue to urge arresting agencies to submit final dispositions on all arrests.

Sincerely yours,

J. Edgar Hoover
John Edgar Hoover
Director

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Arthur Pearlroth
Editorial Consultant

40th
Anniversary

December 30, 1960

Mr. J. Edgar Hoover, Director
Federal Bureau of Investigation
Department of Justice
Washington 25, D.C.

Dear Mr. Hoover:

We are writing you again in reference to the correspondence between us last spring concerning the disposition of an individual's fingerprint records and mug shots where the person is either not prosecuted or acquitted after trial. We raise this issue at this time because the matter was recently reviewed by our Due Process Committee. The Committee was glad to note in your June 29 letter that "when the original fingerprint cards or related data are returned to a contributing agency, the particular entry is deleted from our identification record and no copies of the original fingerprint card or data, which is returned, are retained in the files of the FBI." While this procedure recognizes the need to treat individuals fairly our Committee concluded that it should be the obligation of the Federal Bureau of Investigation to take affirmative action to see that the final disposition of each case is accurately and promptly recorded in its files. Anything less, the Committee felt, can result in serious prejudice to the individual concerned.

We believe that in the interest of observing the spirit of due process, the Bureau should forcefully urge all local law enforcement agencies to provide promptly information concerning the final disposition in all cases where preliminary information was supplied to the Bureau in individual cases. In addition, in those cases where the local law enforcement agency fails to provide such information, the Bureau should make individual inquiry where its records show that the ultimate disposition of a case has not been recorded.

EX 100

REC-33

61-190-855

6 JAN 18 1961

Washington Office — 1612 Eye Street, N.W., Washington 6, D.C.; Lawrence Spelser, Director; Bernice Myers, Executive Assistant
With organized affiliates in twenty-five states and 800 cooperating attorneys in 300 cities of 48 States

Mr. Tolson ✓
Mr. Mohr ✓
Mr. Parsons ✓
Mr. Belmont ✓
Mr. Callahan ✓
Mr. DeLoach ✓
Mr. Malone ✓
Mr. McGwire ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Trotter ✓
Mr. W.C. Sullivan ✓
Tele. Room ✓
Mr. Ingram ✓
Miss Gandy ✓

JAN 3 1961

Mr. J. Edgar Hoover

-2-

December 30, 1960

Although our suggestions may increase the Bureau's work, we feel that such effort will be compensated many times over in terms of the decrease in prejudice to which individuals are now subject due to incomplete criminal records that do not in all cases accurately reflect disposition of criminal charges.

Yours sincerely,

Patrick Murphy Malin

Patrick Murphy Malin
Executive Director

4
REC-44

61-190-856

January 18, 1961

Mr. [REDACTED]

b6
b7C

[REDACTED]
Atlanta 10, Georgia

Dear Mr. [REDACTED]

Your letter dated January 10, 1961, has been received.

In response to your first inquiry, I wish to advise that the FBI is strictly an investigative agency of the Federal Government and, as such, does not make evaluations or draw conclusions as to the character or integrity of any organization, publication or individual. I can advise you, however, that the American Civil Liberties Union has not been the subject of investigation by this Bureau, but this should not be construed as being either a clearance or nonclearance of the group in question. You may wish to contact the Un-American Activities Committee of the United States House of Representatives, Room 225, Old House Office Building, Washington 25, D. C., in connection with your inquiry.

With reference to the other question you raised, it is suggested that you correspond with the Division of Vital Statistics, New York State Department of Health, Albany, New York, for what information it can furnish you. I have always made it a point not to involve the FBI or myself in legislative issues.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

MAILED 9
JAN 19 1961
COMM-FBI

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NOTE: (See next page)

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Atlanta, Ga.
10 January 1961

Mr. J. Edgar Hoover
Department of Justice,
Federal Bureau of Investigation,
Washington, D.C.

Dear Mr. Hoover:

Will you kindly supply me the answers to the two following questions:

- (1) Is the 'American Civil Liberties Union' a subversive organization, and has it ever been probed by the "Committee on Unamerican Activities"?
- (2) The recent press dispatch stating: "New York will be the first community in the nation to eliminate racial information from birth documents, that is, starting in 1961 birth certificates issued to babies born in New York will no longer contain reference to race or color".

Mr. Hoover, won't this omission of such important data cause unlimited confusion and chaos to Crime Records, Statistics, and numerous other branches of investigation necessary to the well being of the nation and the people?

I shall greatly appreciate your comment and information regarding these two questions. Thank you so much.

b6
b7C



Atlanta 10, Ga.

REC-44

61-190-856

JAN 24 1961

CORRESPONDENCE

mmc
ack
1-18-61
DCL:jms

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Tele. Room

Mr. Ingram

Miss Gandy

J. Edgar Hoover
Dept. of Justice
Washington 25, D.C.

Dear Fellow-Member:

The first round of the 1961 effort to abolish the House Un-American Activities Committee comes up in a few weeks when the House Appropriations Committee considers the HUAC's two-year appropriation request.

The ACLU is working day and night to marshal all the splendid forces that favor abolition of the HUAC. (See Civil Liberties lead story, January, 1961.) We are encouraged in our effort by the words of one man, who said:

"...legislative investigation...has too frequently been used by the Nation and the States as a means for effecting the disgrace and degradation of private persons. Unscrupulous demagogues have used the power to investigate as tyrants of an earlier day used the bill of slander...pretending to fear Government, they have asked Government to outlaw private protest...they glorify 'togetherness' when it is theirs, and call it conspiracy when it is that of others...YET THERE ARE FEW AMONG US WHO DO NOT SHARE A PORTION OF THE BLAME FOR NOT RECOGNIZING SOON ENOUGH THE DARK TENDENCY TOWARDS EXCESS OF CAUTION." (Capitals, ours.)

These are the words of President-elect Kennedy. They are part of his statement to ACLU members just three short months ago -- in October, 1960. (Mr. Nixon also gave the Union his views on civil liberties during the Presidential campaign.)

The ACLU is now leading a major drive to translate the new Chief Executive's words into deeds, to develop public opinion about the HUAC's abuses of civil liberties that will lead to Congressional support for ending the HUAC -- and could change the nation's entire civil liberties complexion and even direction for the better.

There is much to be done on other fronts. Look at the Louisiana schools. Florida, where the state's highest court has just upheld the loyalty oath! Tennessee, where some 700 Negro families are to be evicted for trying to vote in the November election! Michigan, where a young teacher was arrested and simultaneously discharged for allowing five boys to read a novel by France's Nobel Prize-winning Albert Camus.

Much must be done. But first the Union must end its fiscal year in the black. Send whatever you can. Actually, \$7 and multiples of that magic number will keep the Union strong. The envelope above is more than a piece of folded paper; it can be your messenger of encouragement to all of us in the national organization and in affiliate offices, who, like you, passionately cherish America's freedoms.

Sincerely yours,

Patrick Murphy Malin

Executive Director of subj. org.

62 JAN 27 1961

ENCLOSURE

Patrick Murphy Malin

GOALS FOR 1961 WITH A REVIEW OF 1960

The American Civil Liberties Union is the nation's only non-partisan organization devoted exclusively to defending the Bill of Rights. Since 1920 it has been on the alert for violations of these constitutional liberties. To keep democracy's guarantees intact, the ACLU defends the rights of everyone — even those who do not believe in civil liberties. At national, affiliate and chapter levels it attacks infringements on the Bill of Rights in courts, legislatures, administrative hearings and in appeals to public opinion.

Below at left are the main issues foreseen for 1961. Opposite are achievements in the same area in 1960. The Union took direct action on most of these issues; its policies on all have long been a matter of public record.

THE 1961 PROGRAM

THE 1960 RECORD

FREE SPEECH AND ASSOCIATION

ACADEMIC FREEDOM: When the National Defense Education Act comes before Congress for renewal, the ACLU will again oppose the loyalty-test provision, protested by many universities, or any substitute measure.

HOUSE UNAMERICAN ACTIVITIES COMMITTEE: Vigorous efforts will continue to seek abolition of the committee through legislative action, a drive in which the Union is providing leadership to several national groups. Special emphasis will be placed on more educational work to acquaint the public with the facts about the HUAC's abuses of civil liberties.

LABOR AND INDUSTRIAL AFFAIRS: A full-scale review will be made of labor's picketing rights under the new labor law; another study will be concerned with the constitutionality of corporation political spending.

CHURCH-STATE: New court cases will challenge the constitutionality of the use of tax-payers' funds for sectarian school textbooks; opposition will continue to religious instruction in the public schools.

CENSORSHIP: A drive to pass a federal law creating, in effect, a national censorship board is expected. The Union will fight this or any other measure designed to give government the right to judge what may be read or seen. In the Supreme Court the *Mape* case challenging an Ohio censorship ordinance will be backed.

TV-RADIO: The need for balanced programming and for freedom from censorship will be stressed in urging the FCC to evaluate stations' applications for license renewal.

In a widely-publicized study on government grants for research, the Union cautioned that the dangers of control through subsidy are imminent, and that freedom of inquiry and expression are thus subject to severe limitations.

The Board of Directors resolved to make abolition of the committee "a prime order of business." As a part of this program, the *Wilkinson* case was taken to the Supreme Court, arguing that no one should be punished for organizing opposition to the committee. In another attack on improper Congressional investigations, the ACLU opposed the demand by the Senate Internal Security Subcommittee that Dr. Linus Pauling disclose names of scientists who helped him circulate an anti-nuclear-testing petition.

Two workers expelled from their union for expressing opinions were defended by the ACLU. The right of unions to use members' dues for political expenditures was backed, provided all members could voice their opinions.

The *Schempp* Bible-reading case in Pennsylvania was won in the lower court and is now being further reviewed; suit was instituted in the *Chamberlain* case in Florida, where a number of religious practices in public schools are being contested.

The Supreme Court, in the *Smith* case, struck down an anti-obscenity law that held booksellers liable whether they knew the contents of the literature or not. The government dropped efforts to censor "Lady Chatterley's Lover" and "Big Table", but opposition continued against private pressure groups seeking to dictate the reading fare of the community.

The Union objected to the monopoly of the airwaves by the major parties as a result of the equal-time-law suspension. It urged a gradual change to a 70-channel UHF system instead of the present 13 VHF channels, which greatly limit diversity.

DUE PROCESS OF LAW

LICENSING REGULATIONS: The Union will challenge in court cases (*Cronan* among them) the denial of licenses for attorneys and others who have failed to get permits because of political associations, individual conscience or past conduct.

LEGAL COUNSEL FOR NEGROES IN THE SOUTH: While advances in this area have been made, the Union will not rest until Negro citizens have full legal protection.

POLICE PRACTICES: Emphasis will continue on setting up independent review boards to hear citizens' complaints of police abuses. Several cases, now pending, will be diligently fought in the courts; the coerced confession — the *Tito Williams* case — is among the more significant ones.

FEDERAL SECURITY PROGRAM: The ACLU will guard against restrictive legislation, and will seek to improve administrative procedures to establish a greater degree of due process in existing regulations.

WIRETAPPING: New challenges will be made through legislation and court cases to invalidate state action which is at variance with the federal law forbidding wiretaps.

Taken to the Supreme Court was a Maryland case in which a license was denied a notary public because he refused to take an oath of belief in God; the ACLU held that the state has no right to ask a man's religious views, and that the individual can disbelieve without suffering discrimination.

In Florida and Virginia, "sit-in" cases were handled directly by the Union; and in other instances counsel was obtained for those who were unable to find an attorney.

Following the lead of the Philadelphia Branch, affiliates in Cincinnati, Detroit, Pittsburgh, Seattle, Los Angeles, Minneapolis, and Columbus, Ohio have either succeeded in getting review boards set up or are working toward that end.

The Union fought a bill, eventually defeated in the Senate after passing the House, which sought to nullify the Supreme Court *Greene* decision protecting the right of confrontation and cross-examination.

In the key *Pugach* case and in the unsuccessful pro-wiretapping federal legislative drive, the ACLU argued that wiretaps of all kinds violate the Fourth Amendment guarantee against invasion of privacy.

ENCLOSURE 61-190-857

THE 1961 PROGRAM

RIGHTS OF JUVENILES AND MENTALLY COMMITTED: Efforts will be pressed for juvenile defendants to be represented by counsel; and for preventing "railroading" of persons to mental institutions by requiring full and fair hearing and review of their cases.

REAPPORTIONMENT: Cases before the Supreme Court will be supported to establish the principle that the 14th Amendment's "equal protection of the law" guarantee includes the right to have one's vote fully representative by ending unequal apportionment of voting districts.

THE 1960 RECORD

The ACLU intervened in Virginia where an innocent trash collector was picked up at 3 a.m. by police and put in a mental hospital because a mental telepathist had pointed in his direction as the culprit in an unsolved murder case. The Union won his release.

A major test of malapportionment in Michigan, rejected by the state Supreme Court as "political", was appealed to the U. S. Supreme Court by the Metropolitan Detroit ACLU. The Minnesota ACLU fought for a stronger state constitutional amendment assuring fairer representation.

EQUALITY BEFORE THE LAW

IMMIGRATION AND CITIZENSHIP: Legislative removal of second-class citizenship for naturalized persons and fair hearings for aliens will be sought. Cases challenging improper deportation will be sought.

DISCRIMINATION IN HOUSING: A campaign to end discrimination in federally-aided housing by securing a clear presidential directive barring such bias will be waged. At the same time, efforts to bar bias in private housing will be reinforced.

RIGHT TO VOTE: Strengthening of the federal civil rights laws will be stressed, to enable the government to move faster and more effectively in protecting the right to vote.

DESEGREGATION IN SCHOOLS AND PLACES OF PUBLIC ACCOMMODATION: The Florida restaurant "sit-in" cases will be further appealed to the courts to seek a clear determination of the constitutional right of Negroes to be served in what is, in effect, a place of public accommodation. The theory is that once stores invite customers in to purchase, they cannot select what wares to sell them. The Union will encourage federal legislation to assist communities to implement the Supreme Court decisions.

AMERICAN INDIANS: The Indian Civil Rights Committee has asked the new national administration to give special consideration to the Kinzua Dam project, to improve the machinery for approving contracts between attorneys and tribes, and to assure prompt disposition of claims before the Indian Claims Commission.

In the *Schneider* case, still pending, an attempt was made to prevent the revocation of naturalized citizenship of an individual who had lived in the U. S. since the age of five, went to Germany in 1956 to be married, and has lived there since. A 1952 law states that naturalized citizens who live continuously for three years in their native country forfeit their U. S. citizenship.

In the first test of New York City's anti-bias law in private housing, the state Supreme Court ruled that discrimination in housing is contrary to the public policy. In Washington state, the Union joined with other organizations in the *O'Meara* case in upholding the state's anti-discrimination law.

In the *Gomillion* case, the ACLU supported the successful challenge of Alabama's efforts to eliminate the voters of Tuskegee by redrawing boundary lines.

The Union won the significant case of three white children from the Koinonia, Ga., religious community who were barred from an all-white school because of their parents' support of integration; "sit-ins" were supported both directly and indirectly in many areas of the South; the right of peaceful protest was stressed.

The Committee continued its efforts to avert construction of the Kinzua Dam to save the Seneca Reservation in New York from destruction. Allied with the Council on Indian Affairs, the ACLU enlarged its program to expand the civil liberties of American Indians.

INTERNATIONAL CIVIL LIBERTIES

SELF-RULE: Efforts will continue to promote increased self-government and civil rights in the Virgin Islands, Guam, Samoa and the Pacific Trust Territory, and also in Okinawa, the last foreign area under U. S. military control.

American Samoa got its first constitution with very limited autonomy. In Okinawa the military occupation granted slightly increased autonomy.

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GOALS FOR 1961

WITH A REVIEW OF 1960

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